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Ontario. Laws, Statutes.

Revised statutes 1950

JAN 21 1969

REVISED STATUTES OF ONTARIO, 1950

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED
UNDER THE AUTHORITY OF THE STATUTES
CONSOLIDATION ACT, 1949

IN FIVE VOLUMES

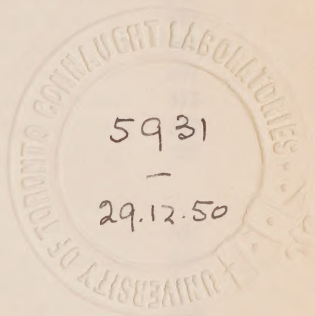
VOL. 1



ONTARIO

TORONTO

PRINTED AND PUBLISHED BY BAPTIST JOHNSTON
Printer to the King's Most Excellent Majesty



REVISED STATUTES OF ONTARIO, 1950

VOLUME 1

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CHAPTER 1

The Absconding Debtors Act

1. In this Act, "property" includes credits and effects. Interpretation.
R.S.O. 1937, c. 127, s. 1.

2.—(1) If a person resident in Ontario departs therefrom with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, being then possessed of any real or personal property therein not exempt by law from seizure under execution, he shall be deemed an absconding debtor, and such property may be seized and taken by an order of attachment for the satisfying of his debts. Who to be regarded as absconding debtors.

(2) The order shall not be made except in a pending action. When order may be made.
R.S.O. 1937, c. 127, s. 2.

3.—(1) Upon affidavit made by a plaintiff or his agent that the defendant is indebted to the plaintiff in a sum exceeding \$100, stating the cause of action, and that the deponent has good reason to believe and does believe that such defendant has departed from Ontario and has gone to some place, stating it, to which he is believed to have fled, or that the deponent is unable to obtain any information as to the place to which he has gone, with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, and was, at the time of his so departing, possessed to his own use and benefit of real or personal property in Ontario not exempt by law from seizure under execution, and upon the further affidavit of two other persons that they are well acquainted with such defendant and have good reason to believe and do believe that he has departed from Ontario with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, a judge of the Supreme Court or of a county court may make an order in the Supreme Court for the attachment of the property of such defendant. Affidavit and order of attachment.

(2) Where the sum claimed is within the jurisdiction of the county court a judge thereof may in like manner make an order of attachment in that court. County court jurisdiction. R.S.O. 1937, c. 127, s. 3.

Service of
order.

4. A copy of the order shall be served upon the defendant. R.S.O. 1937, c. 127, s. 4.

Term of
validity.

5. The order shall remain in force for six months. R.S.O. 1937, c. 127, s. 5.

Certified
copies of
order.

6. The plaintiff may at any time while the order is in force obtain from the proper officer one or more certified copies thereof, which may be delivered to any sheriff other than the sheriff to whom the original order was delivered, and he may thereunder attach the property of the defendant in his bailiwick. R.S.O. 1937, c. 127, s. 6.

Liability of
property to
attachment.

7. All the property of an absconding debtor liable to seizure under execution may be attached in the same manner as it might be seized under execution, and the sheriff to whom the order of attachment is directed shall forthwith take into his charge all such property, according to the exigency of the order, and shall be allowed all necessary disbursements for keeping the same, and he shall immediately call to his assistance two substantial freeholders of his county, and with their aid shall make a just and true inventory of all the personal property, evidence of title or debts, books of account, vouchers and papers that he has attached, and shall return such inventory signed by himself and such freeholders, together with the order. R.S.O. 1937, c. 127, s. 7.

Seizure of
property
under
order.

8.—(1) Where horses, cattle, sheep or pigs, or perishable property, or such as from its nature cannot be safely kept or conveniently taken care of, are taken under an order of attachment, the sheriff who attaches the same shall have them appraised, on oath, by two competent persons, and, if the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by two freeholders, approved as sufficient by the sheriff, in double the appraised value of the property, conditioned for the payment of the appraised value to the defendant, his executors or administrators, together with all costs and damages incurred by the seizure and sale thereof, in case judgment is not obtained by the plaintiff against the defendant, then the sheriff shall proceed to sell all or any of such property at public auction to the highest bidder, giving not less than six days notice of the sale, unless any of the property is of such a nature as not to allow of that delay, in which case the sheriff may sell it forthwith, and the sheriff shall hold the proceeds for the same purposes as he would hold property seized under the order of attachment.

Restoration.

(2) If the plaintiff, after notice to him or to his solicitor of the seizure of any property mentioned in subsection 1,

does not deposit such bond, then, after four days next after the notice, the sheriff shall be relieved from all liability to the plaintiff in respect to the property so seized, and the sheriff shall forthwith restore the same to the person from whose possession it was taken. R.S.O. 1937, c. 127, s. 8.

9.—(1) Where the sheriff finds any property, or the proceeds of any property which has been sold as perishable, belonging to the defendant in the custody of a constable or of a bailiff or clerk of a division court under a warrant of attachment issued, or finds money paid into court under a garnishee summons under *The Division Courts Act*, the sheriff shall demand and be entitled to receive the same from the constable, bailiff or clerk, who, on demand and notice of the order of attachment, shall forthwith deliver the same to the sheriff, under the penalty of forfeiting double the value thereof, to be recovered by the sheriff, with costs of suit, and to be by him accounted for after deducting his own costs, as part of the property of the defendant; but the creditor who has sued out the warrant of attachment or taken the garnishee proceedings in the division court may proceed to judgment, and on obtaining judgment, and serving a certificate of the amount thereof, and of the costs, under the hand of the clerk and the seal of the division court, shall be entitled to share in the distribution, if any, by the sheriff under *The Creditors' Relief Act*.

Proceedings if sheriff finds property in the hands of a bailiff or clerk of a division court.

Rev. Stat. c. 106.

Rev. Stat. c. 78.

(2) The costs and disbursements of such constable or bailiff shall be a first charge upon such property and proceeds and shall be paid by the sheriff upon demand after being taxed by the clerk of the division court. R.S.O. 1937, c. 127, s. 9.

Costs of bailiff or constable.

10. The costs of the sheriff for seizing and taking charge of property under an order of attachment, including the sums paid to persons for assisting in taking an inventory and for appraising, shall be paid in the first instance by the plaintiff, and when paid shall be taxed to him as disbursements in the action. R.S.O. 1937, c. 127, s. 10.

Sheriff's costs, how paid.

11. Where the sheriff has made an inventory and appraised on the first order of attachment he shall not be required to make nor shall he be allowed for a new inventory and appraisal upon a subsequent order coming into his hands. R.S.O. 1937, c. 127, s. 11.

Cost of inventory.

12.—(1) Where the defendant or any person on his behalf executes and files in the office from which the order of attachment, or the first order if there are more than one, was issued, a bond to the sheriff with at least two sufficient sureties

Restoration of goods to debtor on his giving security.

approved by the proper officer in such office or by the local judge or master, binding the obligors jointly and severally in double the appraised value of the property attached, conditioned that the defendant (naming him) will whenever required by order of the court or a judge pay into court the appraised value of the property or so much thereof as will be sufficient to satisfy the claims of all creditors who may be entitled to share in the proceeds of the property, or will produce and deliver to the sheriff the property attached, the court or a judge may direct that such property be restored to the debtor.

Proceedings
on default.

(2) If within one month after the property has been attached such bond is not executed and filed, the court or a judge may direct the sheriff to sell any of the goods and chattels which have been attached, except chattels real, upon such terms as to the court or judge may seem just. R.S.O. 1937, c. 127, s. 12.

Costs of
first
attachment.

13. The costs of the first order of attachment and of the execution thereof shall have priority over all execution debts and other costs. R.S.O. 1937, c. 127, s. 13.

Liability of
persons
paying debts
to abscond-
ing debtor
after notice
of
attachment.

14.—(1) Where notice in writing of the order of attachment has been duly served by the sheriff, or by or on behalf of the plaintiff, upon a person owing a debt or demand to, or who has the custody or possession of property of the defendant, and such person after such notice pays the debt or demand or delivers the property to the defendant or to any one for him, he shall be deemed to have done so fraudulently, and if the other property seized by the sheriff is insufficient to satisfy the claims of all creditors who are or become entitled to be paid out of the same or the proceeds thereof, such person shall be liable to the sheriff for the amount of the debt or demand so paid or for the property so delivered or the value thereof.

Duty of
sheriff.

(2) The sheriff shall not be bound to sue until a bond is given by one or more of the plaintiffs or claimants with two sufficient sureties, who may be other of the plaintiffs or claimants, payable to the sheriff by his name of office in double the amount of the debt or of the value of the property sued for, conditioned to indemnify him from all costs, loss and expense which he may incur in the prosecution of the action or to which he may become liable in consequence thereof.

Stay of
proceedings
taken by
absconding
debtor.

(3) If, after the notice mentioned in subsection 1, a person indebted to the defendant, or having the custody or possession of any of his property, is sued for the debt, demand or property by the defendant, or by the person to whom he has

assigned the debt, demand or property since the date of the order of attachment, he may, on affidavit, apply to the court or a judge to stay proceedings in the action until it is known whether the other property seized by the sheriff is sufficient to satisfy the claims mentioned in subsection 1, and the court or judge may direct an issue to try any disputed question of fact or make such other order as may seem just. R.S.O. 1937, c. 127, s. 14.

15. If the other property of the defendant proves insufficient to satisfy the executions against him and the claims certified under *The Creditors' Relief Act*, and there remain debts due to the defendant, the attempt to collect which would be less beneficial to his creditors than a sale thereof, the sheriff may, by leave of the court or a judge, sell such debts by public auction after such advertisement as the court or judge may direct and, pending such advertisement, the sheriff shall keep a list of the debts to be sold open for inspection at his office, and shall give free access to all documents and vouchers explanatory of such debts; but every debt amounting to more than \$100 shall be sold separately, unless the court or judge shall otherwise direct. R.S.O. 1937, c. 127, s. 15.

Sale of debts by sheriff.

Rev. Stat., c. 78.

16.—(1) The person who purchases a debt from the sheriff may sue for it in his own name, and a bill of sale (Form 1) executed by the sheriff, shall be *prima facie* evidence of such purchase and of the sheriff's authority to sell without proof of the handwriting of the sheriff, or of the execution or order, or of the sale.

Right of purchaser to sue.

(2) In an action by the purchaser the defendant may set up any defence which would have availed him against the absconding debtor at the date of the order of attachment. R.S.O. 1937, c. 127, s. 16.

What defence may be set up.

17. Where the plaintiff desires to avail himself of *The Creditors' Relief Act* he may, instead of proceeding with his action, obtain a certificate, and in that case, may add the costs incurred in the action to the amount of his claim, unless the court or a judge otherwise orders. R.S.O. 1937, c. 127, s. 17.

Option of proceeding under Rev. Stat., c. 78.

18. Where an order of attachment has been made but no execution at the suit of any creditor against the property of the debtor is placed in the sheriff's hands for execution within three months thereafter or within such further time as the court or judge may direct, all the property of the absconding debtor, or unappropriated money the proceeds of any part of such property remaining in the sheriff's hands, together

Sheriff's duty and end of his responsibility.

with all books of account, evidences of title, or of debt, vouchers and papers whatsoever belonging thereto, shall be delivered to the absconding debtor or to his authorized agent, or to the person in whose custody the same were found, or, if taken or received under section 9, to the constable, bailiff or clerk from whom the same were taken or received, upon being repaid the amount, if any, which the sheriff may have paid under subsection 2 of section 9, and thereupon the responsibility of the sheriff in respect thereto shall determine, or, if a bond has been given under section 12, the bond shall be delivered up to be cancelled. R.S.O. 1937, c. 127, s. 18.

FORM 1

BILL OF SALE OF A DEBT

(Section 16)

In consideration of \$....., the receipt whereof I hereby acknowledge:

I, *A. B.*, Sheriff of the County of....., under and by virtue of an order of attachment dated....., issued under *The Absconding Debtors Act*, against the real and personal property of *C. D.*, an absconding debtor, and under and by virtue of an order in that behalf, hereby sell and assign to *E. F.*, all claim by the said *C. D.*, against *G. H.*, of (*describing the debtor*), with the evidences of debt and the securities thereunto appertaining.

Witness my hand and seal of office, this.....day of....., 19...

A. B.,
Sheriff of the County of.....

R.S.O. 1937, c. 127, Form 1.

CHAPTER 2

The Absentees Act

1. An absentee within the meaning of this Act means one who, having had his usual place of residence or domicile in Ontario, has disappeared, whose whereabouts are unknown and as to whom there is no knowledge as to whether he is alive or dead. R.S.O. 1937, c. 120, s. 1. Interpretation.

2.—(1) The Supreme Court may by order declare a person to be an absentee if it is shown that due and satisfactory inquiry has been made, or may direct such further inquiry to be made and proceedings to be taken as it may deem expedient before making any order. Declaration by court.

(2) The application for the order may be made by the Attorney-General for Ontario, or by any one or more of the next of kin of the alleged absentee, by his or her wife or husband, creditor or other person. Application, who may make.

(3) Any person aggrieved or affected by the order shall have the right to appeal therefrom. R.S.O. 1937, c. 120, s. 2. Appeal.

3. Upon application at any time the court, if satisfied that such person has ceased to be an absentee, may make an order so declaring and superseding, vacating and setting aside the order declaring the person an absentee for all purposes except as to acts or things done in respect of the estate of the absentee while such order was in force. R.S.O. 1937, c. 120, s. 3. Order declaring person no longer absentee.

4. The court may make an order for the custody, due care and management of the property of an absentee and a committee may be appointed for that purpose. R.S.O. 1937, c. 120, s. 4. Administration of estate.

5. A trust company with or without one or more persons may be appointed such committee. R.S.O. 1937, c. 120, s. 5. Who may be appointed committee.

6. Where a committee of the estate of an absentee has been appointed, the powers and duties of the court and committee shall be the same *mutatis mutandis* as the powers and duties of a court and of a committee of the estate of a mentally incompetent person, as provided by *The Mental Incompetency Act*. R.S.O. 1937, c. 120, s. 6. Powers and duties of court and committee. Rev. Stat., c. 230.

Powers of
committee
to expend
money out
of estate.

7. The committee, subject to the direction of the court, shall have authority to expend moneys out of the estate of an absentee for the purpose of endeavouring to trace the absentee and in endeavouring to ascertain whether he is alive or dead. R.S.O. 1937, c. 120, s. 7.

CHAPTER 3

The Accidental Fires Act

1. No action shall be brought against any person in whose house or building or on whose land any fire accidentally begins, nor shall any recompense be made by him for any damage suffered thereby; but no contract or agreement made between landlord and tenant shall be hereby defeated or made void. No action for damages from accidental fire.
Imp. Act,
14 Geo. III,
c. 78, s. 86.
R.S.O. 1937, c. 161, s. 1.

CHAPTER 4

The Accumulations Act

1.—(1) No person shall, by any deed, surrender, will, codicil, or otherwise howsoever, settle or dispose of any real or personal property so that the rents, issues, profits or produce thereof shall be wholly or partially accumulated for any longer than one of the following terms: Limitation of period during which accumulation permitted.

- (a) for the life of the grantor;
- (b) for twenty-one years from the death of the grantor or testator;
- (c) for the period of minority of any person living, or *en ventre sa mere*, at the death of the grantor or testator;
- (d) for the period of minority of any person who, under the instrument directing the accumulation, would for the time being, if of full age, be entitled to the income, or rents and profits, directed to be accumulated.

(2) No accumulation for the purchase of land shall be directed for any longer period than that mentioned in subsection 1. Accumulations for the purchase of land. Imp. Act, 55-56 Vict. c. 58.

(3) Where an accumulation is directed otherwise than as aforesaid, such direction shall be null and void, and the rents, issues, profits and produce of such property so directed to be accumulated shall, so long as they are directed to be accumulated contrary to this Act, go to and be received by such person as would have been entitled thereto if such accumulation had not been directed. R.S.O. 1937, c. 153, c. 1. Application of invalid accumulations. Imp. Act 39-40 Geo. III, c. 98, s. 1.

2. Nothing in this Act shall extend to any provision for payment of debts of any grantor, settlor or deviser, or other person, or to any provision for raising portions for any child of any grantor, settlor or deviser, or for any child of any person taking any interest under any such conveyance, settlement or devise, or to any direction touching the produce of timber or wood upon any lands or tenements, but all such provisions and directions may be made and given as if this Act had not been passed. R.S.O. 1937, c. 153, s. 2. Saving as to debts or portions for children.

CHAPTER 5

The Administration of Justice Expenses Act

PART I

FEES OF OFFICERS

1. Where not otherwise provided by law the Lieutenant-Governor in Council make make rules fixing and determining the fees to be allowed to counsel, solicitors and other officers and persons for or in respect of any criminal prosecutions, matters, and proceedings in the Supreme Court or court of general sessions of the peace, or under any commission or special commission, or relating to the King's revenue, and shall therein distinguish the fees to be paid by private individuals. Who may make rules as to fees.
R.S.O. 1937, c. 141, s. 1; 1941, c. 2, s. 1.

2.—(1) Subject to such rules, the table of fees in Schedules A and B shall be the fees to be taken by sheriffs, coroners, clerks of the peace, Crown attorneys, clerks of courts, constables, analysts and examiners respectively for the services therein mentioned, in respect of any business transacted by them in any such prosecution, matter or proceeding, and in the proceedings in the county or district court judges' criminal court and before coroners, magistrates and justices of the peace. Fees in criminal matters, to sheriffs, Crown attorneys, coroners, clerks of the peace, etc.
R.S.O. 1937, c. 141, s. 2 (1); 1941, c. 2, s. 2, *amended*.

(2) The Lieutenant-Governor in Council may from time to time amend or repeal any of the items and forms in the Schedules to this Act or add thereto. Amendments and additions to Schedules.
R.S.O. 1937, c. 141, s. 2 (2); 1940, c. 28, s. 1; 1946, c. 89, s. 2.

3.—(1) The tariff of fees established by this Act for the services of sheriffs in connection with offenders sentenced or liable to be removed to an Ontario reformatory shall apply also to offenders sentenced or liable to be removed to other reformatories. Fees of sheriffs on removals to reformatories.
R.S.O. 1937, c. 141, s. 3.

(2) The distance travelled from the court house to the place where a paper is served or other service performed shall be ascertained by the statutory declaration or affidavit of the sheriff or his bailiff or other officer who actually makes or performs the service. Mileage.
R.S.O. 1937, c. 141, s. 16 (4).

Fee of jail
surgeon.

4. A jail surgeon shall be entitled to receive a fee of \$1 for the examination of each prisoner eligible for removal, or sentenced to the penitentiary or a reformatory, and for making the certificate. R.S.O. 1937, c. 141, s. 8, *amended*.

Arrange-
ment with
clerk of
the peace
as to his
fees.

5. A county council may agree with the clerk of the peace for the payment to him of a gross annual sum in lieu of all fees chargeable by him to the county, and which are not repayable to the county by Ontario; but either of the parties to the agreement may determine the same on the 31st day of December in any year, by giving to the other one month's notice, in writing, of the intention so to do. R.S.O. 1937, c. 141, s. 4.

Levying
fees.

6. All percentages, fees or allowances, on levying fines and recognizances, may be levied over and above the amount of the fines and recognizances. R.S.O. 1937, c. 141, s. 5.

Fees for
services
not men-
tioned
herein.

7. Nothing in this Act shall deprive any of the officers mentioned in section 2 of fees allowed by any Act of the Parliament of Canada, or of this Legislature, for other services not herein provided for. R.S.O. 1937, c. 141, s. 6 (1).

Penalty
for taking
higher fees.

8. If any such officer wilfully demands or receives any other or greater fee, percentage or allowance than the fee, percentage, or allowance to which he is entitled under this Act, for any of the services performed by him, unless allowed by an Act of the Parliament of Canada, or of this Legislature, he shall, for every such offence, be liable to a penalty of \$60. R.S.O. 1937, c. 141, s. 7.

Allowance to
constables
and others
for special
services.

9.—(1) Where, in the opinion of the Crown attorney, special services, not covered by the ordinary tariff, are necessary for the detection of crime or the capture of a person who is believed to have committed a crime of a serious character, he may authorize and direct any constable or other person to perform such service, and shall certify upon the account to be rendered by the constable or other person what he deems a reasonable allowance to be paid to the person employed, and the amount so certified shall be paid to such person by the county.

Advances to
constables
etc., for
expenses in
performing
special
services.

(2) The Crown attorney may direct the treasurer of the county to advance to the constable or other person such sum as he may name for the purpose of paying the reasonable and necessary expenses incurred or to be incurred by such constable or other person in the performance of such special services, and the treasurer of the county shall pay such sum upon the written order of the Crown attorney, and shall

deduct the amount thereof from the subsequently certified account of the constable or other person employed. R.S.O. 1937, c. 141, s. 9 (1, 2); 1938, c. 1, s. 2, *amended*.

(3) This section shall not apply to services in a city or separated town for which there is a staff of salaried police officers, and no allowance shall in any other case be made under subsection 1 to any salaried constable or other officer unless he is entitled to receive for his own use, in addition to his salary, the fees earned by him. Application of this section;

(4) This section shall apply *mutatis mutandis* to districts without county organization, and the treasurer of the district shall pay or advance the amount certified or directed by the Crown attorney in the same manner as the treasurer of the county is required to do by subsections 1 and 2. R.S.O. 1937, c. 141, s. 9 (3, 4). in districts.

10.—(1) Every local registrar, and deputy registrar, and every officer authorized to act as local registrar, or deputy registrar, shall be entitled to be paid out of the Consolidated Revenue Fund \$7 for each day's attendance at non-jury as well as at jury sittings. R.S.O. 1937, c. 141, s. 11 (1); 1947, c. 1, s. 1. Fees for attending sittings for trial.

(2) Where a sittings of the Supreme Court, county or district court, or court of general sessions of the peace is continued after eight o'clock in the evening an additional allowance, not exceeding one day's pay, may, upon the certificate of the presiding judge, be made to any officer in attendance upon such court who is paid for services by a *per diem* allowance. R.S.O. 1937, c. 141, s. 11 (2). Allowance in case of prolonged sittings.

11. Where services are rendered by any person in connection with any prosecution, and such services are rendered by the direction or with the approval of the Attorney-General, the person by whom they are rendered shall be entitled to be paid such sum as the Attorney-General may direct, and the same shall be charged upon and be paid out of the Consolidated Revenue Fund. R.S.O. 1937, c. 141, s. 12. Payment for special services.

12. Where in the opinion of the Attorney-General it is necessary in order to procure the attendance, as a witness for the Crown at a criminal trial, of a person resident out of Ontario that such person should be compensated for his loss of time and expenses in attending the trial, the Attorney-General may direct that such sum as he may deem reasonable be paid to such person and the same shall be charged upon and paid out of the Consolidated Revenue Fund. R.S.O. 1937, c. 141, s. 13. Remuneration of witnesses coming to Ontario to give evidence.

Employment
and pay-
ment of
interpreter.

13. The Crown attorney may employ an interpreter in any criminal cause or investigation or at a coroner's inquest, and the interpreter shall be paid such amount as the Crown attorney may certify to be reasonable, and the same shall be allowed to the interpreter in the account in respect of the administration of justice and shall be payable by the county. R.S.O. 1937, c. 141, s. 14.

Form of
account.

14. Every account rendered shall be verified by the oath of the claimant that the amount is correct in every particular, and, when mileage is charged, the places from and to which the mileage is reckoned, and the number of miles shall be mentioned, and in no case shall more than the actual number of miles travelled be allowed, nor, where the service is by a sheriff's officer, shall a greater number of miles be allowed than the distance from the court house to the place of service, and the separate items in such account shall be numbered consecutively. R.S.O. 1937, c. 141, s. 36, *amended*.

Forms to be
provided by
county.

15. Forms of account (Form 1) and such other forms as may be prescribed by the Lieutenant-Governor in Council, shall be provided by the county, and shall on application be furnished by the county treasurer to the officers requiring them. R.S.O. 1937, c. 141, s. 37.

Constable's
accounts to
be certified.

16. Every account of a constable shall be certified by the justice, Crown attorney or coroner under whose direction the constable acted. R.S.O. 1937, c. 141, s. 38, *amended*.

PART II

Fees in
civil matters
payable by
parties.

17.—(1) All fees payable under Part I to the officers therein mentioned for services in proceedings in the nature of a civil remedy for persons at whose instance and for whose private benefit the same are performed shall be paid by such persons.

Fees payable
in first
instance by
county.

(2) Except as in this Act or by law otherwise provided all fees payable under Part I to the officers therein mentioned, for services connected with the administration of justice, other than those mentioned in subsection 1, shall be paid in the first instance by the county, unless the county jail is owned and maintained by a city, in which case the fees in respect of prisoners convicted for offences committed within the city limits shall be paid in the first instance by the city, and so far as they relate to prisoners convicted for offences committed in the county within the limits of the city, shall be paid in the first instance by the county, and the county or

city, as the case may be, shall be entitled to be reimbursed out of the Consolidated Revenue Fund all of the said expenses mentioned in Schedule B which relate to prisoners who have been convicted of indictable offences or committed for trial, or who have been tried but not convicted under Part XVIII or XIX of the *Criminal Code* (Canada).

R.S.C. 1927,
c. 36.

(3) The Lieutenant-Governor in Council may prescribe regulations for the examination, audit and approval by the Auditor of Criminal Justice Accounts of all accounts of or relating to the expenses mentioned in subsection 2 and notwithstanding anything in *The Audit Act* or in any other Act such accounts shall not be subject to further examination or audit, and all accounts payable out of the Consolidated Revenue Fund under subsection 2 shall be paid by the Treasurer of Ontario as requisitioned by the Attorney-General or his deputy upon the certificate of the Auditor of Criminal Justice Accounts.

Regulations
as to audit
by Auditor
of Criminal
Justice
Accounts.

Rev. Stat.,
c. 28.

(4) The methods of payment and of apportionment set forth in items 1 and 2 under the subhead "Other Matters" in Schedule B constitute the basis upon which the expenses or proportion thereof mentioned in such subhead payable out of the Consolidated Revenue Fund shall be fixed. R.S.O. 1937, c. 141, s. 15.

Apportion-
ment of
expenses.

18. Except as otherwise provided, in any matter concerning the administration of justice the fees and expenses set out in Schedule C shall be paid, upon the certificate or approval of the official therein indicated, in the first instance by the county, unless the county jail is owned and maintained by a city, in which case the fees in respect of cases arising within the city limits shall be paid in the first instance by the city and so far as they relate to cases arising in the county without the limits of the city, shall be paid in the first instance by the county and the county or city, as the case may be, shall be entitled to be reimbursed out of the Consolidated Revenue Fund three-fifths of such fees and expenses. 1942, c. 34, s. 1 (1).

Fees and
expenses.

19.—(1) Where an allowance to a constable or other person under section 9 is paid by the county, the county shall be repaid one-half thereof out of the Consolidated Revenue Fund.

County
to be re-
imbursed
one-half
constable's
fees.

(2) Notwithstanding anything in this or in any other Act each county shall be entitled to be reimbursed from time to time out of the moneys appropriated to the administration of justice for counties, such amounts paid to Crown attorneys

Reimburse-
ment of
county for
Crown
attorney's
fees.

for services and disbursements as the Attorney-General shall in his discretion consider proper to be repaid. R.S.O. 1937, c. 141, s. 16 (1, 2).

Indictable offences, costs to be paid out of the county funds.

20. Where a person is prosecuted or tried for an indictable offence and convicted or acquitted, or otherwise discharged, the costs of the prosecution, including the actual travelling expenses of the Crown attorney, when not otherwise provided by law, shall be paid by the county. R.S.O. 1937, c. 141, s. 17.

Expenses of trial on change of venue.

21.—(1) Where in the case of a prosecution for an indictable offence the venue is changed from the county in which the offence is alleged to have been committed to another county, the county in which the trial would have taken place had the venue not been changed, shall repay to the county to which the venue is changed all additional expenses to which the last-mentioned county is put by reason of the change of venue.

Idem.

(2) Where the venue is changed from a provisional judicial district to a county, the county shall be reimbursed such expenses by the Province, and where the venue is changed from a county to a provisional judicial district such expenses shall be repaid to the Province by the county.

How recoverable.

(3) Any amount payable by one county to another under subsection 1 or by a county to the Province under subsection 2 shall be a debt recoverable by the county or the Crown as the case may be, by action in any court of competent jurisdiction. R.S.O. 1937, c. 141, s. 18.

In cases of indictable offences fees for services to person charged to be paid from county funds.

22. Where a person is charged with an indictable offence every officer of the court before which he is tried, or any proceedings are had with regard to the charge, who renders any official service in the matter of the charge, or in the course of the trial, to the person so charged, shall be paid his lawful fee for such service by the county in the same manner as other fees payable to them in respect of official services rendered to the Crown in the conduct of public prosecutions, and no such fee shall in any case be demanded of or be payable by the person charged. R.S.O. 1937, c. 141, s. 19.

Accounts against county.

23.—(1) All accounts and demands preferred against a county in respect of the administration of criminal justice shall be delivered to the clerk of the peace on or before the 1st days of January, April, July and October in every year, and, subject to Part III, shall be audited and approved by the board of audit. R.S.O. 1937, c. 141, s. 20.

(2) Subject to subsection 3 the board of audit shall consist of the judge of the county court, and two other persons, not more than one of whom shall be a member of the council, who shall be appointed annually at its first meeting by the council of the county. Board, how constituted.

(3) The council of every city which forms parts of a county for judicial purposes and pays a part of the expenses of the administration of justice shall appoint one member of the board of audit and in that case the county council shall appoint a member of the Board of audit for every member appointed by the council of a city. Where city concerned.

(4) The county and city councils may pay each member of the board such sum as they may respectively by by-law determine for his attendance at the audit and five cents for each mile necessarily travelled in going to and returning therefrom. Remuneration of members of board of audit.

(5) The junior judge or a deputy judge, if any, in the absence or at the request of the judge may act in his stead. Absence of judge.
R.S.O. 1937, c. 141, s. 21.

24. The clerk of the peace, on the direction of the judge, shall convene the board of audit for the purpose of submitting to it the accounts and demands delivered to him and shall attend the audit, record the proceedings thereat and carry out the orders of the board in respect of the same. R.S.O. 1937, c. 141, s. 22. Duties of clerk of the peace at audit.

25.—(1) The accounts and demands shall be taken into consideration by the board of audit between the 1st and 15th days of January, April, July and October in each year, and shall be disposed of as soon as practicable. When board to consider accounts.

(2) The board of audit, on the completion of the October audit, shall make a report to the council of any irregularity in the accounts and demands, or of any claim made contrary to law, or of any other matter which the board considers should be brought to the notice of the council. Report.

(3) The chairman of the board of audit shall have the power of summoning before the board any person, and of requiring him to give evidence on oath, and to produce such documents and things as the board may deem requisite to the full investigation of such accounts and demands, and for that purpose shall have the same power to enforce the attendance of any person, and to compel him to give evidence, and produce documents and things as is vested in any court in civil cases. R.S.O. 1937, c. 141, s. 23. Authority of chairman as to evidence.

Discretion of board in case of arrest of vagrants.

26. Where the account of a constable for services performed in connection with the arrest and detention of vagrants is deemed unreasonable, or the arrests appear to have been unnecessary or to have been made for the purpose of making fees, the board may refuse to approve the accounts, in whole or in part, or may report the facts and its opinion thereon to the county council, which may, by resolution, refuse payment of such accounts in whole or in part. R.S.O. 1937, c. 141, s. 24.

Certificate of clerk of the peace as to audit.

27.—(1) When the accounts have been audited and approved by the board of audit they shall be certified by the clerk of the peace and his certificate shall be sufficient evidence of such audit and approval.

Specifying authority for payment.

(2) In certifying accounts, except for the payment of constables, the certificate shall state the statute, if any, under which the expenditure is authorized. R.S.O. 1937, c. 141, s. 25.

Items disallowed by Auditor of Criminal Justice Accounts.

28. The treasurer of the county shall notify the board of audit of the items disallowed by the Auditor of Criminal Justice Accounts in the criminal justice accounts of the previous quarter, and the board may deduct the amounts so disallowed from the next or any accounts of the same officers submitted for audit. R.S.O. 1937, c. 141, s. 26.

Doubtful items in accounts may be deferred.

29. The board of audit may direct the treasurer to defer payment of any account, or any item in any account, payable out of the Consolidated Revenue Fund in respect of which it doubts either the liability of the Province or the correctness of the amount charged, until the decision of the Auditor of Criminal Justice Accounts as to the correctness or allowance of the account or item has been notified to the treasurer. R.S.O. 1937, c. 141, s. 29.

County treasurer's duty.

30. So soon as the expenses of levying, collecting and managing the rates and taxes imposed in the county are paid, the treasurer of the county shall, unless it is otherwise provided by law, pay the amount of the fees that are certified as payable by the county, in preference to all other charges, in the following order:

1. All sums payable to the sheriff, coroner, jailer, surgeon of the county jail, or to any other officer or person, for the support, care or safe keeping of the prisoners in the county jail, or for the repair and maintenance of the court house or jail.

2. The accounts of public officers and officers of the court of general sessions of the peace.
3. All sums payable for any other purpose connected with the administration of justice within the county.
4. All other sums certified as aforesaid in the order in which they are certified. R.S.O. 1937, c. 141, s. 30.

31. A statutory declaration of the treasurer of the county or city that the accounts have been paid by the county or city respectively, shall be sufficient evidence of that fact. R.S.O. 1937, c. 141, s. 16 (3). Evidence of payment.

32. Notwithstanding any ruling of the county board of audit or city board of audit, as the case may be, where the council of any county or city neglects or refuses to pay to the jailer or any officer of the jail the salary payable under *The Municipal Act*, or neglects or refuses to provide for the making of repairs, alterations or additions to the jail as required by *The Jails Act*, the Auditor of Criminal Justice Accounts may pay such salary or provide for the making of such repairs, alterations or additions out of the moneys at any time owing by the Province to such county or city under this Act. R.S.O. 1937, c. 141, s. 43, *part.* Payment by Province on default of municipality.
Rev. Stat., cc. 243, 188.

PART III

33. The Lieutenant-Governor in Council may appoint the local registrar of the county, or some other public officer resident in the county town, to be the auditor of the accounts relating to the administration of justice in the county for which the Province is liable. R.S.O. 1937, c. 141, s. 31. Auditors of accounts payable by Province.

34. Where an appointment is made under section 33 it shall not be requisite for the board of audit appointed under Part II to audit or approve any account in respect of items set out in Schedule A under any of the following headings, namely, "Sheriffs", "Clerks of the Peace", and "Constables" where the accounts rendered under these headings are in respect of offences belonging to any of the following classes: Audit of certain items by county dispensed with.

- (a) offences for which the persons charged were committed or held on bail for trial at the sittings of the Supreme Court or general sessions of the peace;
- (b) offences for which the persons charged were convicted before a magistrate, under Part XVI or before a judge of a county or district court under Part XVIII of the *Criminal Code* (Canada),

R.S.C. 1927, c. 36.

or in respect of fees to jail surgeons under the heading "Other Matters" in Schedule B. R.S.O. 1937, c. 141, s. 32.

Audit by
county
auditors.

35. All other accounts in connection with the administration of civil or criminal justice which, under Parts I and II or otherwise, are payable by the county shall be audited by the board of audit. R.S.O. 1937, c. 141, s. 33.

Accounts
which are
to be
audited
by auditor
appointed
under
s. 33.

36. If an appointment is made under section 33, all services performed under the regulations provided for by subsection 3 of section 17 in respect of the auditing and approving of accounts relating to the administration of justice, and in respect of the auditing of accounts of the Crown attorney, for which the Province is liable, shall thereafter be performed by the auditor so appointed who, so far as the auditing and approving of such accounts is concerned shall be substituted for the board of audit, wherever the board is mentioned in Part II. R.S.O. 1937, c. 141, s. 34.

When
accounts to
be delivered
to auditor.

37. All accounts and demands to be audited by the auditor shall be delivered to him in duplicate, on or before the tenth day of every month, and shall include all demands of the person rendering the same up to the last day of the next preceding month. R.S.O. 1937, c. 141, s. 35.

Powers of
auditor.

38. The auditor may call upon the claimant for any information that may be required in connection with his account, and for a reference to the authority for the charges made, and may administer an oath to the claimant or to any other person giving evidence in respect of the claim, but shall make no charge therefor. R.S.O. 1937, c. 141, s. 39.

Duties of
auditor.

39. The auditor shall audit each account on receipt thereof, or as soon thereafter as he reasonably can, and, if the claimant so desires, in his presence, and the auditor shall note with red ink in the proper column of the account the item or items disallowed or deferred for further inquiry, distinguishing those disallowed from those deferred, and he shall forthwith, after audit, transmit one of the duplicates of each account to the county treasurer, having first endorsed on the account a certificate showing the amount found to be due to the claimant. R.S.O. 1937, c. 141, s. 40.

Duties of
treasurer.

40. The treasurer of the county shall pay the accounts so approved and take receipts therefor and transmit receipted accounts, with a proper statement of account, to the Auditor of Criminal Justice Accounts at Toronto, who shall check and audit the same, and warrants shall be issued for the amount of such payments to the county treasurer. R.S.O. 1937, c. 141, s. 41.

41. The Auditor of Criminal Justice Accounts may dis-allow any sum improperly allowed by the auditor, and, unless it is disallowed because it is not payable by the Province, if it has been paid meanwhile by the county treasurer, he shall deduct the amount from any money which may within a year next thereafter be payable by the county to the person to whom the payment was erroneously made, and if no money or not sufficient money is so payable, the Province shall make good to the county the amount or the deficiency, as the case may be. R.S.O. 1937, c. 141, s. 42.

Auditor of
Criminal
Justice
Accounts
may dis-
allow sums
improperly
allowed.

SCHEDULE A

(Payable by
county in the
first instance.)

SHERIFFS

1. Serving subpoena or executing warrant.....	\$ 1.50
2. Mileage going to execute warrant or serve subpoena or in returning with prisoner, per mile actually travelled, one way..	.20
3. Bringing up each prisoner for arraignment, trial and sentence, including prisoners who have been out on bail, for each day necessarily brought up.....	2.00
4. Summoning grand and petit juries for the Supreme Court, general sessions and county court..... Where extra petit panel is required, \$25.00 per panel.	40.00
5. Summoning each constable to attend the Supreme Court or general sessions (exclusive of mileage at 20 cents per mile, one way).....	.50
6. Attending sittings of the Supreme Court, general sessions, jury and non-jury sittings of the county court and county court judge's criminal court, per diem.....	7.00
7. For services in connection with the Supreme Court and general sessions exclusive of items 3, 4 and 5.....	20.00
8. Arrest of each prisoner upon a warrant (to be paid out of the county funds, or by the party as the case may be).....	3.00
9. Making special return and certified copy of sentence of prisoners sentenced or eligible to be sent to reformatory, as the inspector of prisons may direct..... (The maximum allowance on one return to be as for five prisoners. Each return to cover all prisoners in jail when the same is made.)	1.50
10. Taking prisoner to railway station to be delivered to bailiff for reformatory, in addition to other expenses incurred in such duty.....	1.00
11. Disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the penitentiary, to any other county or elsewhere or for other purposes in the discharge of the duties of his office (where not provided by law, or herein specifically provided for) to be rendered in account in detail with the proper vouchers, to the satisfaction of the board of audit.....	
12. Disbursements actually and necessarily incurred while in attendance upon a judge of the Supreme Court when holding a sitting of the Supreme Court or incurred in obedience to his order, to be paid by the treasurer of the county upon the order of the sheriff.....	
13. Services performed under section 1059 of the <i>Criminal Code</i> , in each case disposed of under that section.....	2.00
14. Conveying prisoners to the penitentiary, to another county on attachment, judge's order or habeas corpus, exclusive of disbursements for each day necessarily employed (to be paid out of the county funds, or by the party as the case may be)...	7.00

SCHEDULE B

(Reimbursed by
province subject to
section 17 of Act.)

SHERIFFS

1. Serving subpoena or executing warrant upon each person (if payable by the Crown).....	\$ 1.50
2. Mileage, one way, per mile.....	.20
3. Bringing up each prisoner for arraignment, trial and sentence, including prisoners who have been out on bail, for each day necessarily brought up.....	2.00
4. Summoning grand and petit juries for the Supreme Court or general sessions..... Where extra petit panels are required, \$25.00 per panel.	40.00
5. Summoning each constable to attend the Supreme Court or general sessions.....	.50
6. Attending sittings of the Supreme Court, general sessions, jury and non-jury sittings of the county court and county court judge's criminal court, per diem.....	7.00
7. Supreme court } exclusive of General sessions } items 3, 4 and 5.....	13.00 8.00
8. Arrest of each individual upon a warrant (if payable by the Crown).....	3.00
9. Making special return and certified copy of sentence of prisoners sentenced or eligible to be sent to reformatory as the inspector of prisons may direct..... (The maximum allowance on one return to be as for five prisoners. Each return to cover all prisoners in jail when the same is made.)	1.50
10. Taking prisoner to railway station to be delivered to bailiff for reformatory in addition to other expenses incurred in such duty.....	1.00
11. Disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the penitentiary, to any other county or elsewhere or for other purposes in the discharge of the duties of his office (where not provided by law, or herein specifically provided for), to be rendered in account in detail with the proper vouchers.....	
13. Services performed under section 1059 of the <i>Criminal Code</i> , in each case disposed of under that section.....	2.00
14. Conveying prisoners to the penitentiary, to another county or on attachment, judge's order or habeas corpus, exclusive of disbursements for each day necessarily employed (if payable by the Crown).....	7.00

SCHEDULE A—*Continued*(Payable by
county in the
first instance.)SHERIFFS—*Continued*

15. Making return upon attachment or writ of habeas corpus (to be paid out of the county funds or by the party as the case may be).....	\$2.00
16. Levying fines or issues on recognizances estreated, or other process (to be levied under section 5 of Part I); \$5.00 per \$100.00 on the first \$400.00 of the sum levied, exclusive of mileage at 10 cents per mile; and on all sums above \$400.00 the same allowance as on executions in civil proceedings. . . . Where a levy has not been made, \$2.00 for every \$100.00 of the amount received in lieu of the above amount.	
17. Attending and superintending the carrying into execution the sentence of the court in capital cases, exclusive of all sums which are unavoidably disbursed.....	20.00
18. Attending and carrying out a sentence of flogging and reasonable disbursements in preparing a triangle, cat, and straps and a man to execute sentence.....	6.00
19. Return and service in respect to inquisition on body of a prisoner dying in jail.	4.00
20. For all returns (quarterly and annual) per quarter.....	25.00
21. For every prisoner discharged from the jail.....	1.00
22. General supervision over the jail (and jail farms) and prisoners therein and the books kept in connection therewith in addition to any other allowance, per quarter.....	50.00
23. General fee as an allowance to cover services under any statute, rule, order in council or otherwise for which no fee is provided, per quarter.....	75.00

O.Reg. 290/44, *part.*

CROWN ATTORNEYS

In all criminal trials in which no costs have been ordered to be paid, or if ordered to be paid, cannot be made of the defendant, the Crown attorney shall be entitled to receive for the services rendered by him in such case, the following fees to be paid upon the certificate of the chairman of the board of audit and to be taken in lieu of, and not in addition to, the fees which have been heretofore payable for services rendered in such cases, viz:

1. All services before and during the court of general sessions of the peace
 - (a) for each completed case..... \$50.00
 - (b) where a trial of a case lasts more than one day, an additional fee for each day after the first day of the trial. 25.00

SCHEDULE B—*Continued*(Reimbursed by
province subject to
section 17 of Act.)SHERIFFS—*Continued*

15. Making return upon attachment or writ of habeas corpus (if payable by the Crown)..... \$2.00
16. Levying fines or issues on recognizances estreated and mileage.
17. Attending and superintending the carrying into execution the sentence of the court in capital cases..... 20.00
18. Attending and carrying out a sentence of flogging and reasonable disbursements connected therewith..... 6.00
20. For all returns (quarterly and annual) required by the government, per quarter..... 15.00
21. For every prisoner convicted or committed for trial of an indictable offence and discharged from jail..... 1.00
22. For general supervision over the jail and the prisoners therein, and the books kept in connection with the jail, in addition to any other allowance, per quarter..... 50.00
23. One-half of general fee, as an allowance to cover services under any statute, Order in Council, or otherwise, for which no fee is provided..... 37.50

O.Reg. 290/44, *part.*

CROWN ATTORNEYS

1. All services before and during the court of general sessions of the peace
 - (a) for each completed case..... \$50.00
 - (b) where a trial of a case lasts more than one day, an additional fee for each day after the first day of the trial.. 25.00

SCHEDULE A—*Continued*(Payable by
county in the
first instance.)CROWN ATTORNEYS—*Continued*

2. All services before and during the county court judge's criminal court
 - (a) for each completed case..... \$35.00
 - (b) where a trial of a case lasts more than one day, an additional fee for each day after the first day of the trial.. 25.00
7. Affidavit and application to judge for habeas corpus ad testificandum and writ or similar proceedings to obtain the attendance before the court of a prisoner..... 2.00
8. Receiving and examining all informations, depositions, documents and papers connected with a criminal charge, and attending magistrate's court in summary trials under Part XVI of the *Criminal Code*,
 - (a) per case..... 12.00
 - (b) where case is tried outside the city, town or village in which the Crown attorney resides an additional allowance, not including expenses, per day..... 5.00
9. Attending preliminary inquiry or coroner's inquest in the place in which the Crown attorney resides, per inquiry or inquest..... 10.00
 Out of city, town or village in which Crown attorney resides, additional per diem, (not including expenses)..... 5.00
10. Postage, actual amount disbursed, payable at the end of each quarter year.....
11. General fee as an allowance to cover all services for which no fee is provided, including departmental reports, under any statute, Order in Council, departmental direction, or otherwise, and including advising magistrates, justices of the peace, coroners and provincial police officers, in the discharge of their duties and the public generally on criminal matters, per quarter..... 150.00
 - (a) Where a number of charges are pending against the same person, and a conviction has been obtained on one or more indictments, fees and costs on the further proceedings upon the other charges are not to be made or allowed on taxation, unless in cases where the judge or magistrate would, in the event of additional convictions, impose a heavier sentence, or unless there are special circumstances which, in the opinion of the judge or magistrate, render it expedient that the other cases, or some of them, should be proceeded with and tried up to three charges.
 - (b) In cases of indictment for the obstruction, or the non-repair of a highway or bridge, or of indictment for nuisance (where there is a bona fide dispute as to boundary, or title, or claim of right, and where no present public inconvenience is being suffered from what is complained of) the Crown attorney shall not be entitled to charge costs to the public, without the special sanction of the Attorney-General, but will collect his fees and costs from the parties only.

SCHEDULE B—*Continued*(Reimbursed by
province subject to
section 17 of Act.)CROWN ATTORNEYS—*Continued*

2. All services before and during the county court judge's criminal court
 - (a) for each completed case..... \$35.00
 - (b) where a trial of a case lasts more than one day, an additional fee for each day after the first day of the trial.. 25.00
7. Affidavit and application to judge for habeas corpus ad testificandum and writ or similar proceeding to obtain the attendance before the court of a prisoner..... 2.00
8. Receiving and examining all informations, depositions, documents and papers connected with a criminal charge, and attending magistrate's court in summary trials under Part XVI of the *Criminal Code*,
 - (a) per case..... 12.00
 - (b) where case is tried outside the city, town or village in which the Crown attorney resides an additional allowance, not including expenses, per day..... 5.00
10. Postage, actual amount disbursed, payable at the end of each quarter year.....
11. General fee as an allowance to cover all services for which no fee is provided, including departmental reports, under any statute, Order in Council, departmental direction, or otherwise, and including advising magistrates, justices of the peace, coroners and provincial police officers in the discharge of their duties and the public generally on criminal matters, per quarter 75.00

SCHEDULE A—*Continued*(Payable by
county in the
first instance.)CROWN ATTORNEYS—*Continued*

(c) When the offices of Crown attorney and clerk of the peace are held by the same individual and a similar or the same fee is provided for the same service to each officer only one fee is to be charged or allowed.

O.Reg. 290/44, *part*; O.Reg. 66/47;
O.Reg. 117/49; O.Reg. 49/50.

CLERKS OF THE PEACE

General Sessions of the
Peace and County Court.

1. Drawing precepts to summon grand and petit juries, attending judge to sign same, transmitting to the sheriff and making up records of the court (when completed).....	\$15.00
2. Issuing subpoena.....	.75
3. Every copy of subpoena when necessary.....	.25
4. Drawing every special order of the general sessions necessary to be communicated to any person, and entering it on record.....	1.00
5. Notice of any order made by the general sessions and letter transmitting same, when necessary.....	.50
6. For every recognizance to keep the peace, for good behaviour, to appear or for calling parties on their recognizance or discharging same.....	.50
7. Drawing order of the general sessions to estreat and put in process (on the whole list).....	1.00
8. Entering an order to remit an estreat and recording an entry of the same.....	.50
9. Preparing list of sittings specifying names of persons making default under <i>The Estreats Act</i>.....	.50
10. Entering and extracting upon a roll, in duplicate, the fines, issues, amerciaments, and forfeited recognizances recorded in each session, making oath to the same, and transmitting to the sheriff.....	2.00
11. Making out and certifying copy of roll and return of the sheriff, and transmitting it to the Inspector of Legal Offices...	1.00
12. Making out and delivering to the sheriff a calendar of the sentences of each court.....	1.50
13. Preparing and issuing bench warrant or commitment in any case where no fee is especially assigned therefor by any statute or by this tariff.....	1.00
14. Receiving and filing each indictment.....	.50
15. Receiving and filing each presentment of the grand jury.....	.50

SCHEDULE B—Continued

(Reimbursed by
province subject to
section 17 of Act.)

CROWN ATTORNEYS—Continued

O.Reg. 290/44, *part*; O.Reg. 66/47;
O.Reg. 117/49; O.Reg. 49/50.

CLERKS OF THE PEACE

General Sessions of the
Peace and County Court.

- | | |
|--|----------|
| 1. Drawing precepts to summon grand and petit juries, attending judge to sign same, transmitting to the sheriff and making up records of the court (when completed)..... | \$ 15.00 |
| 2. Issuing subpoena (if payable by the Crown)..... | .75 |
| 5. Notice of any order made by the general sessions and letter transmitting same when necessary..... | .50 |
| 6. Every recognizance to keep the peace, for good behaviour, to appear or for calling parties on their recognizance..... | .50 |
| 7. Drawing order of the general sessions to estreat and put in process (on the whole list)..... | 1.00 |
| 8. Entering an order to remit an estreat and recording an entry of the same..... | .50 |
| 9. Preparing list of sittings specifying names of persons making default under <i>The Estreats Act</i> | .50 |
| 10. Entering and extracting upon a roll, in duplicate the fines, issues, amerciaments, and forfeited recognizances recorded in each session, making oath to the same, and transmitting to the sheriff..... | 2.00 |
| 11. Making out and certifying copy of roll and return of the sheriff, and transmitting it to the Inspector of Legal Offices.. | 1.00 |
| 12. Making out and delivering to the sheriff a calendar of the sentences of each court..... | 1.50 |
| 13. Preparing and issuing bench warrant..... | 1.00 |
| 15. Receiving and filing each presentment of the grand jury..... | .50 |

SCHEDULE A—*Continued*(Payable by
county in the
first instance.)CLERKS OF THE PEACE—*Continued*

16. Making out a certified copy or abstract of sentence sent with the prisoner to the penitentiary or reformatory after each session.....	\$1.00
17. Making out and delivering to the sheriff the writ of fieri facias and capias thereon.....	.75
18. Making up record of conviction if submitted to higher court or of acquittal if authorized by the Attorney-General.....	1.00
19. For every single search.....	.25
20. For every general search.....	.50
21. Swearing each party to an affidavit, where no charge is elsewhere provided for it, to be paid out of the county funds, or by the party for whom the affidavit is sworn according to the nature of the case.....	.25
22. Administering oaths to any public officer when authorized to do so (<i>to be paid by officer</i>).....	.25

Miscellaneous

23. For every report or return required by statute or by the government where no remuneration has been provided by this table or by statute.....	1.00
24. Making every copy of extract of a record or paper or document of any kind, required to be made by law, or by the order of the court, or by the order of the government, in any of its departments, or for the information and use of the government, when required, and when no charge is fixed by law, per folio.....	.10
25. Receiving, filing and recording each oath of qualification of a justice of the peace.....	.25
26. Every letter written by direction of the court to the government or coroners or constables or others, upon matters connected with the business of the court and in connection with the administration of justice.....	.25
27. All necessary outlays for postage and publishing to be added in all cases.....	
28. For receiving and filing voters' lists for an entire municipality under <i>The Voters' Lists Act</i>.....	.25
29. For filing each exhibit, list, return or other paper where no fee is specially provided for, except account claims against the county, and papers connected with matters to be charged against private individuals, (to be paid out of the county funds or by the party for whom service is rendered according to the nature of the case).....	.10

The above tariff of fees and costs shall also be applicable in all proceedings where costs are chargeable or ordered to be paid by private parties.

SCHEDULE B—*Continued*(Reimbursed by
province subject to
section 17 of Act.)CLERKS OF THE PEACE—*Continued*

16. Making out a certified copy or abstract of sentence sent with the prisoner to the penitentiary or reformatory after each session.....	\$1.00
17. Making out and delivering to the sheriff the writ of fieri facias and capias thereon.....	.75
18. Making up record of conviction if submitted to a higher court or of acquittal if authorized by the Attorney-General.....	1.00
21. Swearing each party to an affidavit, where no charge is elsewhere provided for it (if payable by the Crown).....	.25

Miscellaneous

23. Furnishing sheriffs and each coroner with revised return of constables when a revision has been made.....	1.00
29. For filing each exhibit.....	.10

SCHEDULE A—*Continued*(Payable by
county in the
first instance.)CLERKS OF THE PEACE—*Continued*

30. Receiving and filing accounts and demands preferred against the county, numbering them and submitting for audit, attending board of audit and certifying accounts—exclusive of city of Toronto, per quarter	\$20.00
City of Toronto, per quarter	50.00

County Court Judge's
Criminal Court.

31. Preparing judge's warrant to bring up the body of prisoner, and delivering the same to sheriff, for each prisoner . . . . .	.50
32. Issuing writ of summons to witness when necessary . . . . .	.40
33. Copy of summons . . . . .	.20
34. Warrant of remand when issued and delivered to sheriff . . . . .	.50
35. Taking and estreating recognizances and proceedings to enforce same (the same fee as allowed for like service at the general sessions of the peace)	

(a) When the offices of the clerk of the peace and Crown attorney are held by the same person and there is a similar or the same fee provided for the same service to each officer, only one fee is to be charged and allowed.

(b) Items numbered from 1 to 19 of the foregoing tariff shall only apply to proceedings in the courts of general sessions of the peace, and shall not supersede any existing tariff of fees for services rendered by the clerk of the peace out of sessions.

O.Reg. 290/44, *part*, amended.

COUNTY COURT CLERKS

In the County of York
fees to be taken by
clerk of the peace.

1. Attending general sessions and county court judge's criminal court, and all services in court, per diem	\$ 7.00
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CLERKS OF MAGISTRATES' COURTS AND OTHER COURTS

For certificates of previous convictions under section 982 of the Criminal Code	1.00
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O.Reg. 290/44, *part*.

SCHEDULE B—*Continued*(Reimbursed by
province subject to
section 17 of Act).CLERKS OF THE PEACE—*Continued*County Court Judge's
Criminal Court.

- | | |
|--|--------|
| 31. Preparing judge's warrant to bring up the body of prisoner, and delivering the same to sheriff, for each prisoner..... | \$.50 |
| 32. Issuing writ of summons to witness..... | .40 |
| 33. Copy of summons..... | .20 |
| 34. Warrant of remand when issued and delivered to sheriff..... | .50 |
| 35. Taking and estreating recognizances and proceedings to enforce same (the same fee as allowed for like service at the general sessions of the peace)..... | |

O.Reg. 290/44, *part, amended.*

COUNTY COURT CLERKS

In the County of York
fees to be taken by
clerk of the peace.

- | | |
|--|---------|
| 1. Attending general sessions and county court judge's criminal court, per diem..... | \$ 7.00 |
|--|---------|

CLERKS OF MAGISTRATES' COURTS AND OTHER COURTS

For certificate of previous conviction..... 1.00

O.Reg. 290/44, *part.*

SCHEDULE A—*Continued*(Payable by
county in the
first instance.)

CONSTABLES

No fees under this heading shall be payable to a constable who is employed exclusively as a constable and is in receipt of a salary for that employment.

1. Arresting a person upon a warrant or arresting without a warrant a person who is subsequently convicted or committed for trial.....	\$ 2.00
2. Executing search warrant.....	2.00
3. Serving each summons or subpoena.....	.50
4. On serving a summons or subpoena, making or attempting, upon proof of due diligence, to make an arrest, taking a prisoner to trial or jail, attending a coroner's inquest or as court constable, making distress or executing a search warrant,	
(a) where a private conveyance is used, mileage one way, per mile.....	.20
(b) where public conveyance is used, the actual travelling expenses incurred by constable and prisoner.	
5. Attending as court constable sittings of the Supreme Court, general sessions and county court or county court judge's criminal court, per day.....	6.00
6. Summoning jury for coroner's inquest, including attendance at inquest.....	3.00
7. Attending each adjournment of a coroner's inquest.....	2.50
8. Exhuming and re-burying body under coroner's warrant or by direction of Attorney-General.....	6.00
9. Serving a distress warrant or advertising under a distress warrant.....	1.50
10. Appraisements, whether by one or more appraisers, 3 cents in the dollar on the value of the goods.	
11. Catalogue, sale and commission and delivery of goods, 5 cents in the dollar on the net proceeds from the sale of the goods.	

O.Reg. 117/49.

SCHEDULE B—*Continued*(Reimbursed by
province subject to
section 17 of Act.)

CONSTABLES

1. Arresting a person upon a warrant or arresting without a warrant a person who is subsequently convicted or committed for trial..... \$ 2.00
3. Serving each summons or subpoena..... .50
4. On serving a summons or subpoena, making or attempting, upon proof of due diligence, to make an arrest, taking a prisoner to trial or jail, attending coroner's inquest or as court constable, making distress or executing a search warrant,
 - (a) where a private conveyance is used, mileage one way, per mile..... .20
 - (b) where public conveyance is used, the actual travelling expenses of the constable and prisoner.
5. Attending as court constable sittings of the Supreme Court, general sessions, or county court judge's criminal court, per day..... 3.50
6. Summoning jury for coroner's inquest including attending at inquest..... 3.00
7. Attending each adjournment of a coroner's inquest..... 2.50

SCHEDULE B—*Continued*

OTHER MATTERS

1. The following expenses of criminal justice in so far as they relate to prisoners convicted of indictable offences are payable under subsection 4 of section 15 of the Act:
 - (a) Fee to jail surgeon for the examination of each prisoner eligible for removal to or sentenced to a penitentiary or reformatory.
2. Such proportion of the expenses of the maintenance of prisoners in city and county jails, reckoned from the date of conviction or committal for trial, as bears the same ratio to the whole of those expenses as the number of days spent in jail by prisoners who have been convicted or committed for trial on indictable offences bears to the whole number of days spent in jail by prisoners confined upon all charges during the same period including, but not so as to restrict the generality of the foregoing, the following:
 - (a) The salaries of the jailer, jail surgeon and jail employee.
 - (b) The payments made to the jailer and jail-employees under the system of credits for regular attendance established under *The Municipal Act*.
 - (c) The payments made under *The Workmen's Compensation Act* or that portion of the premiums paid for insurance to cover awards made by the Workmen's Compensation Board which is not in excess of the assessments that would be payable under Schedule 1 of the regulations under *The Workmen's Compensation Act* in respect of the jailer and jail-employees other than the jail surgeon.
 - (d) The retiring allowances granted under *The Municipal Act* to the jailer, jail surgeon and jail employees.
 - (e) The payments, other than employees' contributions, made into the Public Service Superannuation Fund under *The Public Service Act* in respect of the jailer and jail employees.
 - (f) The clothing, food, medicines, towels, and similar necessities for the prisoners, and bedding other than beds, bed-springs, and mattresses.
 - (g) Fuel, light, water and cleaning material for the jail.

O.Reg. 206/49.

SCHEDULE C

(See section 18 of Act)

ANALYSES AND EXAMINATIONS

1. Upon the certificate of the Attorney-General or Deputy Attorney-General for the analysis of the viscera of a human being..... \$50.00
2. Upon the certificate of the Attorney-General or Deputy Attorney-General or Crown attorney for the analysis of human blood to determine its alcoholic content..... 5.00
3. Upon the certificate of the Attorney-General or Deputy Attorney-General or Crown attorney for the analysis of urine to determine its alcoholic content..... 5.00
4. Upon the certificate of the Attorney-General or Deputy Attorney-General or Crown attorney for a physical examination of any person by a legally qualified medical practitioner.. 5.00
5. For any other scientific examination or analysis such fee as the Attorney-General or Deputy Attorney-General may in his discretion allow.....
6. The living expenses while absent from home of the person making any examination referred to in items 1, 2, 3, 4 and 5 of this schedule shall be paid upon the like certificate at the sums reasonably and actually paid and travelling expenses going to and returning from the place of such examination, but not to exceed first-class railway fare.....
7. Upon the certificate of the official empowered to authorize such analysis or examination, the expenses of conveying such material to the place where the analysis or examination is to be performed, actual expenses not exceeding per mile..... .08

1942, c. 34, s. 1 (2), Sched.

FORM 1

(Section 15)

Province of Ontario:

..... to

Constable of the of

Date of Service	Number of Item	Nature of Service and Particulars of Mileage	Amount Claimed by Official	Deferred for Further Inquiry	Dis-allowed	Amount Payable by the Government

In the case of a constable, the magistrate, Crown attorney or coroner shall add the following certificate:

I hereby certify that the above services were duly performed by constable under my direction, and that the above named prisoner was committed by me for trial at the court.

(Magistrate, or Crown Attorney or Coroner.)

Place
Date

(Affidavit on back)

To Wit: } I of
 County of } in the county of make oath and
 say:

(1) That the within account of services performed by me is true in every particular.

(2) That I have not been paid any part of the charges, nor has any other person to my knowledge received payment for me or on my behalf, nor has any other person, to my knowledge, rendered an account for the same services.

(3) That to perform such services I necessarily travelled the distances in the account mentioned.*

(4) That I am (not) employed exclusively as a constable.

Sworn before me at the of
 in the of
 this day of, 19.....

[*Where special explanations are given, add: (5) "and that the explanatory statements written upon the said account are true in every particular."]

Endorsement on back of Account.	.....	Constable.
January, 19....	.....
County of .....	.....
Account of A.B.	.....

CHAPTER 6

The Adolescent School Attendance Act

1. In this Act,

Interpreta-
tion.

- (a) "adolescent" means a person of either sex who is not more than eighteen years of age, and who is exempted from school attendance under *The School Attendance Act*; Rev. Stat., c. 347.
- (b) "guardian", in addition to having the meaning ascribed in law, includes any person who has received into his home an adolescent child of another person and which adolescent is resident with him or in his care or legal custody;
- (c) "Minister" means Minister of Education;
- (d) "regulations" means regulations made under *The Department of Education Act* or this Act; Rev. Stat., c. 94.
- (e) "school" means a school organized under *The Public Schools Act, The Separate Schools Act, The Continuation Schools Act, The High Schools Act* or *The Vocational Education Act*. Rev. Stat., cc. 316, 356, 66, 165, 413. R.S.O. 1937, c. 368, s. 1.

2.—(1) Every adolescent between fourteen and sixteen years of age shall attend school for the full time during which the schools of the municipality in which he resides are open each year unless excused for the reasons hereinafter mentioned. Compulsory attendance from 14 to 16.

(2) The obligation to attend school under this section does not apply to any adolescent if, Exceptions.

- (a) he is unable to attend school by reason of sickness, infirmity, or other physical defect;
- (b) he is employed on the authority of a home permit or of an employment certificate as hereinafter provided;

- (c) he has passed the matriculation examination of an approved university or has completed, to the satisfaction of the Department of Education, a course of study which may be regarded as the equivalent of the requirements of such examination; or
- (d) he is in attendance at some other educational institution approved by the Minister.

Exceptions
in rural
school
sections.

(3) The obligation to attend school under this section does not apply to any adolescent whose parents or guardians reside in a rural school section and whose services are required in the household or on the farm of his parents or guardians, and adolescents exempt under this section shall not be required to obtain home permits as provided in subsection 1 of section 3. R.S.O. 1937, c. 368, s. 2.

Home
permits.

3.—(1) Where, in the opinion of the school attendance officer, the services of an adolescent between fourteen and sixteen years of age are required in any permitted occupation in or about the home of his parent or guardian, he may be granted by an attendance officer, on the written application of his parent or guardian, a home permit to engage in such services.

Employ-
ment certi-
ficates.

(2) Where, in the opinion of the school attendance officer, the services of an adolescent between fourteen and sixteen years of age are required in some permitted gainful occupation for the necessary maintenance of such adolescent or some person dependent upon him, he may be granted by an attendance officer, on the written application of his parent or guardian, an employment certificate to engage in such services. R.S.O. 1937, c. 368, s. 3.

Hours dur-
ing which
employ-
ment pro-
hibited.

4. No adolescent between fourteen and sixteen years of age shall be employed by any person during the hours from 8 a.m. to 5 p.m., unless he holds a home permit or an employment certificate. R.S.O. 1937, c. 368, s. 4.

Part-time
courses
between
14 and 16.

5. Every adolescent between fourteen and sixteen years of age who holds either a home permit or an employment certificate shall attend part-time courses of instruction, approved by the Minister, for an aggregate of at least 400 hours each year, distributed as regards times and seasons as may best suit the circumstances of each locality, when such part-time courses of instruction are established in the municipality in which he is employed. R.S.O. 1937, c. 368, s. 5.

Between
16 and 18.

6.—(1) Unless excused for reasons hereinafter mentioned, every adolescent between sixteen and eighteen years of age

shall attend part-time courses of instruction, approved by the Minister, for an aggregate of at least 320 hours each year, distributed as regards times and seasons as may suit the circumstances of each locality, when such courses of instruction are established in the municipality in which he resides or is employed.

(2) The obligation to attend part-time courses of instruction under this section does not apply to any adolescent if, Exceptions.

- (a) he is unable to attend such courses by reason of sickness, infirmity, or other physical defect;
- (b) he has passed the matriculation examination of an approved university or has completed, to the satisfaction of the Department of Education, a course of study which may be regarded as the equivalent of the requirements of such examination;
- (c) he is in full-time attendance at a public or a separate school, a high school, a university, or other school approved by the Minister; or
- (d) he is shown to the satisfaction of the public school inspector in the municipality in which he resides to have been, up to the age of sixteen, under full-time instruction in a school recognized by the Department of Education as efficient, or under suitable and efficient full-time instruction in some other manner. R.S.O. 1937, c. 368, s. 6.

7. No adolescent between sixteen and eighteen years of age in a municipality in which part-time courses of instruction approved by the Minister are maintained shall be employed by any person unless he holds either a school dismissal card or a school registration card to be issued as provided in the regulations. R.S.O. 1937, c. 368, s. 7. Employment of adolescent.

8. Every urban municipality with a population of 5,000 and over shall, and any other municipality or school section may, through the authorities hereinafter named, establish and maintain part-time courses of instruction for the education of adolescents between fourteen and eighteen years of age. R.S.O. 1937, c. 368, s. 8. Establishment of part-time courses.

9. The subjects of the courses of study for adolescents shall be selected from those prescribed by the Department of Education for the public and separate schools, the high schools, the art, industrial, and technical schools and classes, Courses of study.

the commercial high schools and the commercial departments of the high schools, and the agricultural and household science departments in high schools. R.S.O. 1937, c. 368, s. 9.

Control of
part-time
courses.

10.—(1) Subject to the regulations of the Department of Education, courses for adolescents in the public and separate schools respectively shall be provided by and shall be under the control of the boards of such schools, and those in the continuation schools and the high schools shall be provided by and shall be under the control of the boards of such schools.

Courses for
study under
Rev. Stat.,
c. 413.

(2) Where schools or classes have been established under *The Vocational Education Act*, the courses of study for adolescents engaged in trades or in industrial or manufacturing occupations shall be provided by and shall be under the control of the advisory vocational committee.

Advisory
commercial
committee.

(3) In a municipality where there is a commercial high school or a commercial department in a high school, the courses for adolescents engaged in commercial occupations shall be provided by and shall be under the control of the advisory commercial committee. R.S.O. 1937, c. 368, s. 10.

Hours of
instruction.

11. Classes providing part-time courses of instruction for adolescents shall be in session for the same number of days in each year as the high schools of the Province, and such classes shall not open before 8 a.m. nor close later than 5 p.m. R.S.O. 1937, c. 368, s. 11.

Inspection.

12. The part-time courses for instruction for adolescents shall be subject to such inspection as the Minister may prescribe. R.S.O. 1937, c. 368, s. 12.

Suspension
of employ-
ment during
hours of
instruction.

13. The employment of any adolescent who is under an obligation under this Act to attend part-time courses of instruction shall be suspended on any day when his attendance at such courses is required, not only during the period for which he is required to attend the courses but also for such additional time as is necessary for him to travel to or from the school where instruction is given. R.S.O. 1937, c. 368, s. 13.

Time of
instruction
included in
legal hours
of employ-
ment.

14. The time spent by an adolescent in attendance at part-time courses of instruction shall be reckoned as a part of the number of hours per day or per week that such adolescent may be lawfully employed. R.S.O. 1937, c. 368, s. 14.

Offences and
penalties.

15.—(1) Every person who,

(a) employs an adolescent who does not hold either,

- (i) a home permit or an employment certificate, or
- (ii) a school dismissal card or a school registration card; or
- (b) employs an adolescent at any time during which his attendance is by this Act required at part-time courses of instructions; or
- (c) employs such adolescent for such a number of hours as with the number of hours during which the adolescent is required to attend such courses will exceed in any day or week the number of hours during which such adolescent may be lawfully so employed; or
- (d) being a parent or guardian of an adolescent, has conducted to or connived at the failure on the part of an adolescent to attend part-time courses of instruction as required under this Act, or suffers or permits such adolescent, through want of proper care or control, to violate any of the obligations of this Act,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$1 and not more than \$20, and the penalties recovered under this section shall be applied to such purposes as the Minister may direct. R.S.O. 1937, c. 368, s. 15; 1944, c. 56, s. 1 (1).

(2) In any prosecution under this Act a certificate as to the attendance or non-attendance at school of any adolescent signed or purporting to be signed by the principal of the school shall be *prima facie* evidence of the facts stated therein without any proof of the appointment of such principal or of his signature. 1944, c. 56, s. 1 (2). Certificate of principal.

16. The school attendance officer in the municipality in which an adolescent is employed may revoke the home permit, the employment certificate, or the school registration card of an adolescent who fails to attend part-time courses of instruction as required by this Act. R.S.O. 1937, c. 368, s. 16. Revocation of home permits, etc.

17. Every school attendance officer appointed under *The School Attendance Act* shall enforce in his municipality the provisions of this Act and for such purpose he shall have and may exercise the powers conferred on him under *The School Attendance Act*. R.S.O. 1937, c. 368, s. 17. Duty of attendance officer.
Rev. Stat., c. 347.

Absence on
holy days.

18. No penalty shall be imposed in respect to the absence of an adolescent from any part-time course of instruction established under this Act on a day regarded as a holy day by the church or religious denomination to which the adolescent belongs. R.S.O. 1937, c. 368, s. 18.

Application
of legisla-
tive appro-
priation.

19. Municipalities maintaining such part-time courses of instruction for adolescents as are approved by the Minister as to organization, control, location, equipment, courses of study, qualifications of teachers, methods of instruction, conditions of admission, employment of pupils and expenditures of money, may receive reimbursement from sums appropriated by the Legislature for this purpose or for technical or agricultural education, in amounts and under conditions prescribed in the regulations. R.S.O. 1937, c. 368, s. 19.

Regulations.

20. Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations providing for the issuing of home permits and employment certificates. 1945 (2nd Sess.), c. 8, s. 1.

CHAPTER 7

The Adoption Act

1. In this Act,Interpre-
tation.

- (a) “adopted child” means infant or other person adopted;
- (b) “adopting parent” means person who adopts an infant;
- (c) “infant” means person under 21 years of age or other person sought to be adopted. 1949, c. 1, s. 1, *part.*

2. The court may make an order for the adoption of any infant resident in Ontario upon an application therefor being made in the prescribed manner by any person domiciled and resident in Ontario. 1949, c. 1, s. 1, *part.*

Where
adoption
orders may
be made.

3.—(1) Notwithstanding section 1 the court shall not make an order for the adoption of an infant,

Where
adoption
orders may
not be made.

- (a) where the applicant, or either of joint applicants, is under 25 years of age or is less than 21 years older than the infant;
- (b) where the applicant is a male and the infant is a female under 21 years of age; or
- (c) where the applicant is unmarried, a widow, a widower or a divorced person,

unless the court is satisfied that there are special circumstances that justify, as an exceptional measure, the making of an adoption order.

Saving.

4. Except in the case of a joint application by a husband and wife, the court shall not make an order for the adoption of an infant by more than one person. 1949, c. 1, s. 1, *part.*

Adoption
by more
than one
person.

4. An adoption order shall not be made upon the application of a husband or wife without the consent of the wife or husband, as the case may be. 1949, c. 1, s. 1, *part.*

Consent of
husband or
wife of
adopting
parent.

Consent,
infant
under 21;

5.—(1) An adoption order in respect of an infant under 21 years of age who has not been married shall be made only with the consent of every person who is a parent or guardian or who has lawful custody or control or who is liable to contribute to the support of the infant.

illegitimate
infant;

(2) Where such infant is illegitimate the consent of the mother shall be sufficient for the purposes of subsection 1, but if any such infant resides with and is maintained by the father, the consent of both mother and father shall be required.

infant ward
of children's
aid society.

Rev. Stat.,
c. 53.

(3) Where such infant has been committed permanently to the care and custody of a children's aid society under *The Children's Protection Act*, the consent of the society shall be sufficient for the purposes of subsection 1. 1949, c. 1, s. 1, *part*.

Consent,
person
over 21.

6. An adoption order in respect of a person who is over 21 years of age or who is under 21 years of age and has been married shall be made only with the consent of the person to be adopted and where such person is married the consent of the spouse. 1949, c. 1, s. 1, *part*.

Where con-
sent may
be dispensed
with.

7. The court may dispense with any consent required by section 4 or subsection 1 or 2 of section 5 if, having regard to all the circumstances of the case, the court is of opinion that the consent may properly be dispensed with. 1949, c. 1, s. 1, *part*.

Provincial
Officer's
certificate,
infant
under 21.

8. An adoption order in respect of an infant who is under 21 years of age and has not been married shall not be made unless the Provincial Officer certifies in writing,

- (a) that the infant has lived for at least two years with the applicant and that during that period the conduct of the applicant and the conditions under which the infant has lived have been such as to justify the making of the order; or
- (b) that the applicant is to the knowledge of the Provincial Officer a proper person to have the care and custody of the infant and that for the reasons set out in the certificate it is in the best interests of the infant that the period of residence be dispensed with. 1949, c. 1, s. 1, *part*.

Provincial
Officer's
certificate,
persons
over 21.

9.—(1) An adoption order in respect of a person over 21 years of age or who is under 21 years of age and has been married shall not be made unless the Provin-

cial Officer certifies in writing that the person sought to be adopted has been in the custody of, brought up, maintained and educated by the applicant as his own child during infancy or until marriage, as the case may be, under any *de facto* adoption.

(2) Where the Provincial Officer is unable to make such a certificate he shall so certify in writing and in any such case the court may review all the circumstances and if the court is satisfied that the person to be adopted has in fact been in the custody of, brought up, maintained and educated by the applicant as his own child during infancy or until marriage, as the case may be, under any *de facto* adoption, the court may make an adoption order. 1949, c. 1, s. 1, *part*. Review by court.

10. The court before making an adoption order shall be satisfied that, Conditions precedent to granting of order.

(a) every person whose consent is necessary under this Act and whose consent is not dispensed with has consented to and understands the nature and effect of the adoption order for which application is made, and in particular in the case of any parent, understands that the effect of the adoption order will be to deprive him or her permanently of his or her parental rights; and Consent.

(b) the order if made will be for the welfare of the infant, due consideration being for this purpose given to the wishes of the infant, having regard to the age and understanding of the infant; and Welfare of infant.

(c) the applicant has not received or agreed to receive, and that no person has made or given, or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the court may sanction. R.S.O. 1937, c. 218, s. 4. No payment to applicant.

11. The court in an adoption order may impose such terms and conditions as the court may think fit and in particular may require the adopting parent by bond or otherwise to make for the adopted child such provision, if any, as in the opinion of the court is just and expedient. R.S.O. 1937, c. 218, s. 5. Terms and conditions.

12.—(1) Upon an adoption order being made, the child shall, unless the adopting order otherwise provides, assume the surname of the adopting parent, and all rights, duties, Use of name of adopting parent and rights.

obligations and liabilities of the parent or parents, guardian or guardians of the adopted child in relation to the future custody, maintenance and education of the adopted child, including all rights to appoint a guardian or to consent or give notice of dissent to marriage, shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopting parent as though the adopted child was a child born to the adopting parent in lawful wedlock, and in respect of the same matters and in respect of the liability of a child to maintain its parents the adopted child shall stand to the adopting parent in the position of a child born to the adopting parent in lawful wedlock; provided that in any case where a husband and wife are the adopting parents they shall, in respect of the matters aforesaid and for the purpose of the jurisdiction of any court to make orders as to the custody and maintenance of and right of access to children, stand to each other and to the adopted child in the same relation as they would have stood if they had been the lawful father and mother of the adopted child, and the adopted child shall stand to them respectively in the same relation as a child stands to a lawful father and mother respectively.

Change of
Christian or
given name.

(2) In and by an adoption order the judge may in his discretion change the Christian or given name or names of the child to be adopted giving the child such name or names as the adopting parents may desire, and thereafter the child shall be entitled to and known by the name or names so given.

Rights to
and interest
in property.

(3) An adoption order shall not deprive the adopted child of any right to or interest in property to which, but for the order, the child would have been entitled under any intestacy or disposition, whether occurring or made before or after the making of the adoption order, but shall confer on the adopted child upon the intestacy of the adopting parent, the same rights to and interests in the property of the adopting parent as a child born in lawful wedlock of the adopting parent, and the expressions "child", "children" and "issue" where used in any disposition made after the making of an adoption order by the adopting parent, shall, unless the contrary intention appears, include an adopted child or children or the issue of an adopted child.

Inheritance
from adopt-
ing parent.

(4) Where an adopted child or the spouse or issue of an adopted child takes any interest in real or personal property under a disposition by the adopting parent, or where an adopting parent takes any interest in real or personal property under a disposition by an adopted child or the spouse or issue of an adopted child, any succession, legacy or other

duty which becomes leviable in respect thereof shall be payable at the same rate as if the adopted child had been a child born to the adopting parent in lawful wedlock.

(5) For the purposes of this section, "disposition" means ^{Interpre-}an assurance of any interest in property by any instrument ^{tation.} whether *inter vivos* or by will, including codicil.

(6) For the purposes of the enactments relating to fatal ^{Rights re}accidents the adopting parent shall be deemed to be the ^{fatal}parent of the child. ^{accidents.}

(7) Save as herein provided and as to persons other than ^{Status of}the adopting parent, the adopted child shall not be deemed ^{adopted}the child of the adopting parent. ^{child.}

(8) If the adopted child dies intestate, his property acquired ^{Disposition}by himself or by gift or inheritance from his adopting parent ^{of property}or from the kindred of such parent shall be distributed as ^{where child}though he had been born in lawful wedlock to his adopting ^{dies}parent and property acquired from his natural parent or ^{intestate.}kindred shall descend as if no adoption order had been made.

(9) An adoption order made with respect to an illegitimate ^{Legitimation}child shall not in any way be affected by the intermarriage ^{not to affect}of its parents. R.S.O. 1937, c. 218, s. 6. ^{adoption}
^{order.}

13.—(1) Upon any application for an adoption order, the ^{Interim}court may postpone the determination of the application and ^{order.}may make an interim order, which shall not be an adoption order for the purposes of this Act, giving the custody of the infant to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the infant and otherwise as the court may think fit.

(2) All such consents as are required to an adoption order ^{Consents.}shall be necessary to an interim order but subject to a like power on the part of the court to dispense with any such consent. R.S.O. 1937, c. 218, s. 7.

14. An adoption order or an interim order may be made in ^{Effect of}respect of an infant who has already been the subject of an ^{order on}adoption order, and, upon any application for such further ^{previous}adoption order, the adopting parent under the adoption order ^{adoption.}last previously made shall, if living, be deemed to be the parent of the infant for all the purposes of this Act. R.S.O. 1937, c. 218, s. 8.

Jurisdiction
as to mak-
ing order.

15.—(1) The court having jurisdiction to make an adoption order shall be the Supreme Court, or

(a) the judge, or junior, or acting judge of the county or district court; or

(b) when designated by the Lieutenant-Governor in Council as a judge within the meaning of this Act, the judge of the juvenile court,

within whose jurisdiction either the applicant or the person to be adopted resides at the time of the application for the order.

Rules.

(2) Rules in regard to any matter to be prescribed under this Act and directing the manner in which applications to the court are to be made, and dealing generally with all matters of procedure and incidental matters arising out of this Act, and for carrying this Act into effect may be made by the Lieutenant-Governor in Council.

Application
to be heard
in chambers.

(3) An application for an adoption order may be heard and determined in chambers, and if the child was born out of wedlock this fact shall not appear upon the face of the adoption order.

Papers to
be sealed.

(4) The papers used upon an adoption application shall be sealed up and shall not be open for inspection save upon the direction of a judge or the provincial officer.

Guardian
ad litem.

(5) For the purpose of any application under this Act and subject to any rules under this section, the court may appoint some person to act as guardian *ad litem* of the infant upon the hearing of the application with the duty of safeguarding the interests of the infant before the court, and may direct the applicant to pay the costs of the person so appointed. R.S.O. 1937, c. 218, s. 9.

Payment
or reward
unlawful.

16. It shall not be lawful for any applicant or for any parent or guardian, except with the sanction of the court, to receive any payment or other reward in consideration of the adoption of any infant under this Act or for any person to make or give or agree to make or give to any applicant or to any parent or guardian any such payment or reward. R.S.O. 1937, c. 218, s. 10.

Copy of
order to
Registrar-
General.
Rev. Stat.,
c. 412.

17.—(1) The proper officer of the court shall transmit to the Registrar-General under *The Vital Statistics Act* a certified copy of every adoption order, under the seal of the proper certifying authority, within 10 days of the making of the order.

(2) Where the adopted child was born outside of Ontario the clerk shall transmit an additional certified copy to the Registrar-General. 1948, c. 1, s. 1.

18. A person domiciled in any other province of Canada who has been adopted in accordance with the laws of the province where he is domiciled, shall be entitled to the same rights of succession as to property in Ontario as he would have had in the province in which he was adopted but not exceeding the right he would have had if adopted under this Act. R.S.O. 1937, c. 218, s. 13.

19. The Lieutenant-Governor in Council may appoint an officer in the public service, to be known as the Provincial Officer, for the purposes of this Act and may appoint any other officers for the carrying out of this Act and may confer upon any officer so appointed power to administer any oath or take any affidavit or statutory declaration in or relating to any matter arising under the administration of this Act. R.S.O. 1937, c. 218, s. 14.

20. The property and rights of all children adopted under *The Adoption Act, 1921* shall be governed by this Act. R.S.O. 1937, c. 218, s. 15.

CHAPTER 8

The Agricultural Associations Act**1. In this Act,**Interpreta-
tion.

(a) "association" means any one of the organizations referred to in sections 2 and 20;

(b) "Minister" means Minister of Agriculture. R.S.O. 1937, c. 80, s. 1.

2. The following associations, societies and organizations shall be, or continue to be, bodies corporate under this Act: Certain bodies declared to be corporations.

The Ontario Fruit and Vegetable Growers' Association,
 The Entomological Society of Ontario,
 The Dairymen's Association of Eastern Ontario,
 The Dairymen's Association of Western Ontario,
 The Ontario Poultry Association,
 The Eastern Ontario Poultry Association,
 The Ontario Bee-keepers' Association,
 The Ontario Agricultural and Experimental Union,
 The Dominion Sheep Breeders' Association,
 The Dominion Swine Breeders' Association,
 The Dominion Cattle Breeders' Association,
 The Canadian Horsemen's Association,
 The Ontario Horse Breeders' Association,
 The Gardeners' and Florists' Association,
 The Ontario Corn Growers' Association,
 The Ontario Plowmen's Association,
 The Ontario Swine Breeders' Association,

and such other associations, societies, institutes, or organizations as may be designated by the Lieutenant-Governor in Council. R.S.O. 1937, c. 80, s. 2; 1948, c. 2, s. 1.

3. The membership of each association shall consist of Membership. annual subscribers, and the membership fee shall be fixed by by-law. R.S.O. 1937, c. 80, s. 3.

4. Each association shall have a constitution and by-laws, Constitution and by-laws. under which the association shall be conducted, and the constitution and by-laws, and any change, alteration or repeal thereof shall be submitted to and approved by the Minister

before the same shall have force or effect. R.S.O. 1937, c. 80, s. 4.

Annual
meeting.

5. Each association shall hold an annual meeting at such time and place as may be determined by by-law. R.S.O. 1937, c. 80, s. 5.

Election of
directors.

6. Each association, at its annual meeting, shall elect a board of directors, the number of directors, their representation of certain districts or classes of members, and their mode of selection being determined by by-law. R.S.O. 1937, c. 80, s. 6.

Non-
members,
election of.

7. The members may elect as director a person not a member of the association, but the person so elected must, within ten days, become a member, and he shall be entitled to act as director only after he has become a member of the association. R.S.O. 1937, c. 80, s. 7.

Statements
at annual
meeting.

8. At each annual meeting the retiring officers shall present a full report of their proceedings, and of the proceedings of the association, and a detailed statement of the receipts and expenditure for the previous year, and of the assets and liabilities, duly audited, and a copy of the report, and of each of the statements of the receipts and expenditure, together with a list of the members and a list of the officers elected, and also such general information on matters of special interest to each association as the association has been able to obtain, shall be sent to the Minister within forty days after the holding of the annual meeting. R.S.O. 1937, c. 80, s. 8.

President
and vice-
president.

Secretary-
treasurer.

9.—(1) The directors shall, from among themselves, elect a president and one or more vice-presidents, and shall also from among themselves or otherwise elect a secretary and a treasurer or a secretary-treasurer.

Quorum.

(2) Except as otherwise provided for, a majority of the directors of the association shall form a quorum. R.S.O. 1937, c. 80, s. 9.

Powers of
directors.

10. The directors shall have full power to act for and on behalf of the association, and all grants of money and other funds of the association shall be received and expended under their direction, subject to the by-laws and regulations of the association. R.S.O. 1937, c. 80, s. 10.

Auditing of
accounts.

11. The Minister may appoint a person who shall audit the accounts of any association, and such auditor shall

present a report of the result of his audit to the officers of the association, and also to the Minister. R.S.O. 1937, c. 80, s. 11.

12. The members of the association may by by-law provide that only those members who have paid their subscriptions at least one week in advance of the annual meeting shall be qualified to vote at the annual meeting for the election of directors. R.S.O. 1937, c. 80, s. 12. Right of voting.

13. Except as otherwise provided, a vacancy occurring by the death or resignation, or failure to qualify as member, of any officer or director may be filled by the remaining officers of the association, and it shall be the duty of such officers to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but, in the event of the remaining officers being insufficient to form a quorum, or, if, for any reason, a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in manner provided in section 14. R.S.O. 1937, c. 80, s. 13. Vacancies in offices.

14.—(1) In the event of an election of any directors of an association not being held at the time or place directed by by-law or being for any reason illegal and void, the persons in office at the time when such officers or directors should have been elected shall continue to be the officers of the association until their successors are legally appointed. Continuance in office.

(2) In the event of any such non-election or illegal election, a special meeting of the members of the association shall, as soon as practicable, be called in the manner provided by this Act, for the election of such directors, and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be the officers of the association. R.S.O. 1937, c. 80, s. 14. Failure to elect, special meeting.

15. A special meeting of the directors of any association organized under this Act may be called by the president thereof, or, in his absence or on his neglect, by the vice-president, or, in the absence or on the neglect of the president and vice-president, by any three members of the association, of which meeting at least seven days notice shall be given to each member. R.S.O. 1937, c. 80, s. 15. Special meeting of directors.

16.—(1) The treasurer of every association before entering upon the duties of his office shall give such security, either by joint or several covenant with one or more sureties, or otherwise, as the board of directors may deem necessary, for Security by treasurer.

the faithful performance of his duties and especially for the due accounting for and paying over all money which may come into his hands.

Duty of
board as to
security.

(2) It shall be the duty of the board in each and every year to inquire into the sufficiency of the security given by the treasurer and to report thereon, and where the same treasurer for any association is reappointed from year to year his reappointment shall not be considered as a new term of office, but as a continuation of the former appointment, and any bond or security given to the association for the faithful performance of his duties under such reappointment shall continue valid as against the parties thereto.

Personal
responsibil-
ity of officers
for loss.

(3) If the officers of an association neglect to procure and maintain proper and sufficient security they shall be personally responsible for all funds of the association in the possession of the treasurer. R.S.O. 1937, c. 80, s. 16.

Legislative
grant.

17.—(1) Every association shall be entitled to receive annually out of any moneys appropriated by the Legislature for that purpose a specified sum on the following conditions:

- (a) that the number of *bona fide* members is at least fifty;
- (b) that the secretary of the association shall, on or before the 1st day of September in each year, transmit to the Minister an affidavit, stating the number of members who have paid their subscriptions for the current year, and the total amount of such subscriptions;
- (c) that the general provisions of this Act applying to the associations have been complied with;
- (d) that none of the funds of the association, from whatever source derived, have been expended in a manner inconsistent with the purposes of organization of the association.

Grants from
municipal
councils.

(2) The municipal council of any city, town, village, county or township in Ontario may grant or loan money or grant land in aid of any agricultural association formed within the limits of the municipality, or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality when such association has made returns to the Minister as required by this Act, provided that the total amount or value of the money or land heretofore or hereafter

granted or loaned by any municipality to an agricultural association under this section shall not exceed \$5,000 in the case of a city, \$2,000 in the case of a town and \$1,000 in the case of a village. R.S.O. 1937, c. 80, s. 17.

18. If an association ceases for twelve consecutive months to do business as required by this Act and by its constitution, by-laws and rules, or if the Minister is satisfied, after an inquiry at which the association was given due notice to appear, that the business of the association is not being properly conducted, the Minister may declare the corporate powers of the association forfeited. R.S.O. 1937, c. 80, s. 18. Forfeiture of powers for non-user.

19. The Ontario Horticultural Exhibition, the Ottawa Winter Fair, the Peninsular Winter Fair and such other organizations as may hereafter be designated by the Lieutenant-Governor in Council, shall be corporate bodies under this Act with power to acquire and hold land as a site for fairs and exhibitions, to sell, mortgage, lease or otherwise dispose of the same or any other property held by such body, and the Lieutenant-Governor in Council may prescribe such constitution, rules and regulations as are deemed necessary. R.S.O. 1937, c. 80, s. 19 (1); 1950, c. 1, s. 1. Certain fairs and exhibitions incorporated

20. Upon the petition of any association or society not subject to this Act but formed for the purpose of advancing the interests of any branch of agriculture, being presented to the Lieutenant-Governor in Council, the Lieutenant-Governor in Council may declare that this Act shall apply to the association or society so petitioning, and thereafter this Act shall apply to such association or society in the same manner and to the same extent as if it had been incorporated under this Act. R.S.O. 1937, c. 80, s. 20 (1). Admission of other societies.

21.—(1) An advisory board for live stock may be formed to advise the Minister regarding matters of interest to the live stock industry. Advisory board for live stock.

(2) The Lieutenant-Governor in Council may direct how the board shall be constituted, and may prescribe the duties and powers of the board. Board, powers and duties of.

(3) Members of the advisory board shall receive an allowance for their time and their necessary travelling expenses in attending meetings of the board, or a committee of the board. R.S.O. 1937, c. 80, s. 21. Allowances for expenses.

22.—(1) The formation of boards of agriculture, farmers' institutes and women's institutes, for the purpose of Farmers' and women's institutes.

disseminating information in regard to agriculture, and of improving domestic life, shall be permitted under this Act, and the same shall constitute associations under this Act.

Rules and
regulations.

(2) The Lieutenant-Governor in Council may, upon recommendation of the Minister, make rules and regulations providing for the number and location of the boards of agriculture, farmers' institutes and women's institutes, for the general guidance and direction of the same, and fixing the grants, and conditions upon which the grants are to be paid. R.S.O. 1937, c. 80, s. 22.

CHAPTER 9

The Agricultural Committees Act

1. In this Act,

Interpreta-
tion.

- (a) "agricultural organization" includes agricultural co-operative, agricultural association, agricultural society and agricultural club and any branch thereof;
- (b) "agricultural representative" means an agricultural representative appointed under *The Agricultural Representatives Act*; Rev. Stat., c. 12.
- (c) "Department" means Department of Agriculture;
- (d) "Minister" means Minister of Agriculture. 1944, c. 5, s. 1.

2.—(1) A committee consisting of not more than fifteen persons may be formed in any county or district, and the name of every such committee shall bear the name of such county or district. Committee, name of.

(2) Where only one agricultural representative has been appointed for two counties or districts, one committee may be formed for the two counties or districts. 1944, c. 5, s. 2. One committee for two counties or districts.

(3) Where two agricultural representatives have been appointed for one county or district, two committees may be formed for the county or district. 1946, c. 89, s. 5. Two committees for one county or district.

3.—(1) Where an agricultural representative in a county or district receives written notice from any three or more agricultural organizations within his county or district requesting the organization of an agricultural committee, he shall forthwith call a general meeting of representatives of the agricultural organizations in the county or district for the purpose of forming a committee. Organization.

(2) At the meeting a committee of not more than thirteen persons shall be selected by such mode as may be determined at the meeting for the current year or until their successors are selected and every agricultural organization shall be en- Selection of committee.

titled to at least one representative on the committee, unless there are more than thirteen agricultural organizations represented at the meeting, in which event one person may be selected as the representative of two or more agricultural organizations.

Chairman,
vice-
chairman.

(3) The committee so selected shall appoint an acting chairman and acting vice-chairman from among themselves and the agricultural representative shall be the acting secretary-treasurer of the committee.

Report to
Minister.

(4) A report of the meeting, certified by the acting chairman and the acting secretary-treasurer showing the names of the agricultural organizations represented at the meeting and the names and addresses of the persons selected as members of the committee, together with such other information as the Minister may require, shall be forwarded to the Minister within ten days after the holding of the meeting. 1944, c. 5, s. 3.

Committee
declared
agricultural
committee.

4.—(1) Upon receipt of the report mentioned in subsection 4 of section 3 the Minister may declare such committee to be an agricultural committee.

Members.

(2) The members of the committee shall be members of the agricultural committee and the agricultural representative shall be the secretary-treasurer. 1944, c. 5, s. 4.

Appoint-
ment of
members.

5.—(1) One member may be appointed to the committee by the member or members of the Legislature whose electoral district or districts include any rural part of the county or district and such member shall hold office during pleasure.

in county;

(2) In the case of a county agricultural committee one member may be appointed annually by the county council.

in district.

(3) In the case of a district agricultural committee one member may be appointed by the Minister and shall hold office during pleasure. 1944, c. 5, s. 5.

Who to be
members of
committee.

6. No person shall be selected or appointed as a member of a committee except a farmer, farm woman, retired farmer, farm youth or an official of an agricultural organization. 1944, c. 5, s. 6.

Annual
meeting.

7. The agricultural representative shall call an annual meeting of representatives of all agricultural organizations in the county or district and members of the agricultural committee for the ensuing year shall be selected and a chairman and vice-chairman shall be elected thereat in such manner as may be

prescribed by the rules of the agricultural committee. 1944, c. 5, s. 7.

8. The objects and purposes of an agricultural committee shall be, Objects and purposes.

- (a) to co-operate with and make suggestions to the agricultural representative;
- (b) to consider and make recommendations to appropriate authorities with respect to soil conservation, reforestation, weed control, health of animals, plant diseases, crop production, marketing problems and other matters which are deemed advisable for the improvement of agriculture within the county or district;
- (c) to co-ordinate the undertakings of the various agricultural organizations in the county or district; and
- (d) to assist in promoting farm youth activities within the county or district. 1944, c. 5, s. 8.

9. The Minister may assign to any committee any matter or undertaking which he may consider of special interest to agriculture. Assignment of matter or undertaking. 1944, c. 5, s. 9.

10. An agricultural committee may initiate or promote any matter or undertaking for the purpose of improving agriculture. Promotion of matter or undertaking. 1944, c. 5, s. 10.

11. Subject to the approval of the Minister an agricultural committee may require producers of any agricultural product within the county or district to register their names and addresses with the secretary-treasurer and to furnish such information respecting the production other than cost, of such agricultural product as the agricultural committee may determine. Registration of producers. 1944, c. 5, s. 11.

12. An agricultural committee may establish an executive committee to consist of three or five members for such purposes as the committee may determine. Executive committee. 1944, c. 5, s. 12.

13. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. Regulations. 1944, c. 5, s. 13.

14. Subject to the approval of the Minister, the travelling expenses of the members shall be paid out of such moneys as may be appropriated by the Legislature. Expenses. 1944, c. 5, s. 14.

CHAPTER 10

The Agricultural Development Act

1. In this Act,

Interpreta-
tion.

(a) "Commissioner" means Commissioner of Agricultural Loans;

(b) "Treasurer" means Treasurer of Ontario. R.S.O. 1937, c. 78, s. 1, *amended*.

2.—(1) The office of Commissioner of Agricultural Loans is continued and the Commissioner of Agricultural Loans is continued as a corporation sole under that name with perpetual succession and an official seal and may sue and be sued under that name in the same manner as any other corporation sole, and the Lieutenant-Governor in Council may from time to time appoint a person to hold that office. R.S.O. 1937, c. 78, s. 26 (1, 2), *amended*.

Commis-
sioner of
Agricultural
Loans.

(2) The Lieutenant-Governor in Council may from time to time appoint an Assistant Commissioner of Agricultural Loans who shall have and may exercise and perform all the powers, rights, duties and obligations of the Commissioner. 1949, c. 2, s. 3 (1).

Assistant
Commissioner.

3. It shall be the duty of the Commissioner to promote agricultural development by means of loans as hereinafter provided and in such other manner as the Commissioner may deem advisable. R.S.O. 1937, c. 78, s. 3.

Duty of
Commis-
sioner.

4. The Commissioner, with the approval of the Lieutenant-Governor in Council, shall have power from time to time to issue bonds of the Commissioner to the amount of \$500,000 in such denominations and at such rates of interest as the Commissioner may deem proper and subject to such conditions as to the sale and disposal thereof as the Commissioner may deem advisable. R.S.O. 1937, c. 78, s. 4.

Commis-
sioner may
issue bonds.

5. The Lieutenant-Governor in Council may authorize the Treasurer to purchase out of the Consolidated Revenue Fund any bonds or debentures issued by the Commissioner under the authority of this Act. R.S.O. 1937, c. 78, s. 5.

Treasurer
may pur-
chase bonds.

Proceeds of
bonds; how
dealt with.

6. All moneys received by the Commissioner from the sale of the bonds issued under section 4 shall be deposited in a separate account of the Commissioner in any chartered bank of Canada or in the office of any company or corporation authorized to accept deposits and such moneys shall be used solely for the purposes hereinafter set forth. R.S.O. 1937, c. 78, s. 6.

Issue of
debentures
by Commis-
sioner.

7.—(1) The Commissioner, with the approval of the Lieutenant-Governor in Council, may from time to time issue debentures in such denominations and at such rate of interest as the Commissioner may deem advisable and as may be approved by the Lieutenant-Governor in Council, and the proceeds of any debentures so issued shall be disposed of in the manner provided by section 6 in respect to the proceeds of the sale of bonds issued by the Commissioner.

Security.

(2) The debentures so issued shall be issued upon the security of the assets of the Commissioner and shall not exceed the amount of such assets and such debentures shall be a first charge upon all the assets and revenues of the Commissioner.

Lawful in-
vestment
for muni-
cipal, school
and trust
funds.

(3) Notwithstanding anything in any other Act, the bonds and debentures of the Commissioner shall be at all times a lawful investment for municipal, school and trust funds. R.S.O. 1937, c. 78, s. 7.

Authority to
guarantee
payment of
bonds and
debentures.

8.—(1) The Lieutenant-Governor in Council may authorize the Treasurer to guarantee payment on behalf of the Province of Ontario of any bonds or debentures issued by the Commissioner under the authority of this Act.

Form of
guaranty.

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant-Governor in Council. R.S.O. 1937, c. 78, s. 8.

Commis-
sioner may
make loans,
for what
purposes.

9.—(1) Out of the moneys at his disposal from time to time as the proceeds of the sale or hypothecation of any bonds or debentures issued by the Commissioner, the Commissioner may make loans for the following purposes and no other:

- (a) Acquiring land for agricultural purposes.
- (b) The erection of farm buildings essential to production.
- (c) To pay off charges existing against land at the time of acquisition by the borrower under a will or by descent.

- (d) To pay off encumbrances, in which cases loans shall not exceed fifty per cent of the valuation.
- (e) For the purpose of providing tile drainage.
- (f) To purchase breeding live stock.
- (g) To consolidate outstanding liabilities incurred for productive agricultural purposes.
- (h) For such other purposes relating to the development and operation of the applicant's farm as the Commissioner approves.

(2) At the time of or subsequently to the making of the loan the Commissioner may accept as collateral security for any loan made under the authority of this Act, a life insurance policy or an assignment thereof or any other security which the Commissioner may deem proper. Collateral security.

(3) The Commissioner may make such composition, extension of time or scheme of arrangement with any borrower on his loan as the Commissioner deems advisable. R.S.O. 1937, c. 78, s. 9. Composition, extension, of time, etc.

10. The Commissioner, with the approval of the Lieutenant-Governor in Council, may appoint committees, each of which shall be composed of two or more competent persons, one of whom shall be or shall have been a practical farmer, to consider and report to the Commissioner upon applications and upon problems that may arise in connection with loans already made. R.S.O. 1937, c. 78, s. 10. Committees.

11. Every applicant for a loan under this Act may be required to appear in person before the board or a qualification committee and shall submit evidence to the satisfaction of the board or committee, Qualifications of applicants for loans.

- (a) that he is a British subject of at least 21 years of age and has been resident in Canada for at least three years;
- (b) that he has had at least three years experience in farming and has displayed average ability and capacity;
- (c) that he is of good character;
- (d) that he is actually engaged or intends to engage upon the land upon the security of which the loan is to be made. R.S.O. 1937, c. 78, s. 11.

Limitations as to loan. **12.**—(1) No loan shall exceed \$7,500, and every loan shall be secured by a first mortgage upon lands suitable for agricultural purposes.

On less than 50 acres. (2) On a property of less than 50 acres the maximum valuation to be recognized by the Commissioner shall be \$300 per acre. R.S.O. 1937, c. 78, s. 12.

Valuator's report. **13.**—(1) Before making a loan under this Act, the Commissioner shall secure a report from a competent valuator as to the value of the security offered by the applicant.

Mode of valuing. (2) The land and buildings shall be valued on the basis of their value for agricultural purposes.

Insurance. (3) The buildings upon the land shall be insured to their full insurable value. R.S.O. 1937, c. 78, s. 13.

Extent of loan. **14.** Where the Commissioner is satisfied that the conditions of this Act have been complied with and that agricultural development will be promoted by the loan, the commissioner may make a loan to the applicant to the extent of 50 per cent of the value of the security as shown by the valuator's report. R.S.O. 1937, c. 78, s. 14.

Loan, how repayable. **15.**—(1) Except as hereinafter provided, every loan made under this Act shall be repayable in equal annual instalments of principal and interest sufficient to discharge the debt at the end of such period as may be agreed upon, but no loan shall be made for more than 30 years.

Payments on account of loan. (2) Payments on account of the loan, in addition to those provided for in the mortgage or agreement, may be made at any time.

Provisions of payment, alterations in. (3) Notwithstanding anything in this Act, the Commissioner may accept payment of interest without principal for any period not exceeding three years and may, at any time at his discretion, alter the provisions for payment of any mortgage and may consolidate the total indebtedness owing by any mortgagor to the Commissioner, inclusive of accrued interest and moneys paid for taxes and insurance to the date of consolidation and alter the provisions of the mortgage so that the consolidated indebtedness with interest may be repayable in annual instalments within a period not exceeding 30 years from the date of consolidation. R.S.O. 1937, c. 78, s. 15 (1-3).

Regulations. (4) The Commissioner may, with the approval of the Lieutenant-Governor in Council, make regulations relating to

sales made by the Commissioner under the power of sale contained in any mortgage where the purchase money or part thereof is secured by an agreement for sale. R.S.O. 1937, c. 78, s. 15 (4), *amended*.

(5) The Commissioner may accept a release of the equity of redemption existing by virtue of a mortgage to him and may sell any mortgaged property that he has thus acquired or which he is empowered to sell by virtue of the power of sale contained in a mortgage, at such price and upon such terms as in his discretion is deemed advisable. Equity of redemption.

(6) When a sale has been made by the Commissioner under the powers of sale contained in any mortgage and the purchase money or part thereof is secured by an agreement for sale and any instalment, whether for principal or interest payable under the agreement for sale, is not punctually paid, or if the purchaser makes default in the performance of any of the terms of such agreement, the Commissioner, without any formal re-entry or taking of possession and without resorting to proceedings in equity or at law, may, upon 10 days notice in writing to the purchaser directed by mail to him at his last known address, rescind such agreement and resell or otherwise deal with the property as provided for in the mortgage, to the same extent as if the agreement for sale had not been entered into. R.S.O. 1937, c. 78, s. 15 (5, 6). Delay in payments.

16. Every mortgage made under this Act shall be made in accordance with *The Short Forms of Mortgages Act*, and may contain such further covenants, provisos and conditions as the Commissioner may deem proper, and the Commissioner shall have and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act as a mortgagee has under the laws of Ontario. R.S.O. 1937, c. 78, s. 16. Mortgages, how made. Rev. Stat., c. 362.

17. All notices, mortgages, discharges or other documents of every kind and description made or used under this Act shall be prepared by the Commissioner or by some person designated by the Commissioner. R.S.O. 1937, c. 78, s. 17. Commissioner to prepare notices, mortgages, etc.

18.—(1) If at any time in the opinion of the Commissioner any money advanced under this Act has not been or is not being applied for the purpose for which it was advanced, or is not being carefully and economically expended, or if the security depreciates in value the Commissioner may refuse to make any further advance and call in the whole amount already advanced and all interest thereon and declare the same to be immediately due and payable, whereupon the borrower shall at once repay the same with interest at the Where money misapplied.

rate set forth in the mortgage, and in default of payment the Commissioner shall have the like remedies for recovery of the same as if the time for repayment thereof had fully arrived.

Term of
mortgage.

(2) It shall be a term of every mortgage taken as security for a loan that upon the sale of the farm land mortgaged, the loan shall, at the option of the Commissioner, immediately become due and payable. R.S.O. 1937, c. 78, s. 18.

Payments
on mort-
gages,
how
disposed of.

19.—(1) Every payment made on a mortgage given under this Act shall be disposed of as follows:

(a) That portion of such payment which consists of principal shall, at the option of the Commissioner, be paid to the Treasurer from time to time as received, to provide for the payment of the principal, payable upon the debentures issued by the Agricultural Development Board or by the Commissioner and held by the Treasurer; or the Commissioner may, if he so desires, retain the principal portion of such payment and reinvest same in first mortgages according to this Act, and such moneys shall, while in the hands of the Commissioner be placed in a special account, and shall be kept entirely separate and distinct from the other accounts and funds of the Commissioner, and in the event of the Commissioner retaining and reinvesting such principal, the Treasurer shall, at the end of each fiscal year and upon the certificate of the provincial Auditor, cancel the Commissioner's debentures up to the amount reinvested by the Commissioner during such year and accept from the Commissioner, new debentures for such amount.

(b) That portion of such payment which consists of interest and all other revenue of the Commissioner on account of loans shall be applied, in the first instance, in payment of salaries and other operating expenses of the Commissioner and then to payment of losses written off or sustained on the sale of mortgaged properties and the balance then remaining shall be paid to the Treasurer in payment of interest on debentures issued by the Commissioner.

Other
revenue.

(2) Any other revenue of the Commissioner on account of loans shall be credited to a reserve fund account and shall at the end of each calendar month be transferred to the Consolidated Revenue Fund. R.S.O. 1937, c. 78, s. 19.

20. It shall be the duty of the Commissioner from time to time to secure reports as to the condition of any securities taken by him for loans under this Act, and as to the progress and prospects of the borrowers, and for this purpose the Department of Agriculture may co-operate with the Commissioner by rendering assistance of an educational or other nature that appears calculated to facilitate the success of the borrower. R.S.O. 1937, c. 78, s. 20.

Duty of Commissioner to secure reports as to condition of securities.

21. The Lieutenant-Governor in Council may fix the salaries or other remuneration and an allowance for travelling or other expenses of the Commissioner, the Assistant Commissioner, if any, and his employees. R.S.O. 1937, c. 78, s. 21, *amended*.

Salaries and travelling expenses.

22. The salaries or other remuneration of the Commissioner and his officers and employees and all expenses of the Commissioner or connected with the administration of this Act, shall be a first charge upon the interest payments received by the Commissioner and shall be payable out of same as approved by the Commissioner, and any additional moneys required for these purposes shall be paid out of the Consolidated Revenue Fund upon the certificate of the Treasurer or of an officer designated by him for that purpose. R.S.O. 1937, c. 78, s. 22.

Salaries and remuneration, how payable.

23.—(1) The Commissioner shall make an annual report in writing to the Treasurer on the 31st day of January, showing in detail the number and amount of loans made by the Commissioner during the last preceding fiscal year, and the amount of every issue of bonds or debentures made by the Commissioner and outstanding, with the date and terms of every such issue, and the expenses of administration, and with such other particulars as the Treasurer may require.

Annual report.

(2) Every such report shall be laid before the Assembly at the next ensuing session of the Legislature. R.S.O. 1937, c. 78, s. 24.

Tabling.

24. The Commissioner, with the approval of the Lieutenant-Governor in Council, may from time to time make regulations respecting,

Regulations.

- (a) the proceedings of the Commissioner;
- (b) the mode in which applications for loans are to be made and the forms thereof;
- (c) the forms of mortgages to be taken by the Commissioner, including all provisions to be inserted therein;

- (d) the fees and expenses payable by borrowers under this Act;
 - (e) the conditions that may be imposed in regard to loans;
 - (f) the consideration and granting of applications for loans;
 - (g) the valuations to be made in relation to applications for loans;
 - (h) the records, books and accounts to be kept by the Commissioner and the auditing of its accounts;
 - (i) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 78, s. 25; 1949, c. 2. s. 2.
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CHAPTER 11

The Agricultural Development Finance Act

1.—(1) The Treasurer of Ontario is hereby empowered to borrow money by means of deposits in any amounts and from any persons or corporations and to open offices for this purpose at such points in the Province of Ontario as he may find necessary. Powers of Treasurer of Ontario to borrow.

(2) Moneys deposited under this section shall be subject to attachment in the same manner as money deposited in any chartered bank. Moneys subject to attachment. R.S.O. 1937, c. 77, s. 1.

2. Subject to the approval of the Lieutenant-Governor in Council the Treasurer may from time to time fix the conditions as to interest and repayments which shall govern such deposits but the rate of interest paid shall be not more than four per cent per annum. Conditions as to interest and payment. R.S.O. 1937, c. 77, s. 2.

3. Moneys borrowed under this Act shall be used for any of the following purposes: for the public service, for works carried on by commissioners on behalf of Ontario, for the covering of any debt of Ontario on open account, for paying any floating indebtedness of Ontario, and for the carrying on of the public works authorized by the Legislature. Use of moneys. 1948, c. 3, s. 1.

4. All expenses incurred in the administration of this Act shall be paid out of and all revenue paid into the Consolidated Revenue Fund. Expenses and revenues. 1949, c. 3, s. 1.

5. The Lieutenant-Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. Regulations. R.S.O. 1937, c. 77, s. 5.

CHAPTER 12

The Agricultural Representatives Act

1. The Lieutenant-Governor in Council, upon the recommendation of the Minister of Agriculture, may appoint as agricultural representatives persons who have been graduated from a university or agricultural college approved by the Minister with the degree of Bachelor of Science in Agriculture, and every such agricultural representative shall be paid out of moneys appropriated by the Legislature for the purposes of this Act. 1941, c. 3, s. 1. Appointment of representatives.
2. The Minister of Agriculture may appoint assistants to agricultural representatives and may employ such clerical and other assistance as he may deem necessary for the purposes of this Act. R.S.O. 1937, c. 83, s. 2. Assistants and clerks.
3. The agricultural representatives shall perform such duties as the Minister of Agriculture, or such officer of the Department of Agriculture as he may designate, may from time to time direct, and any moneys appropriated by the Legislature for the purposes of this Act shall be expended subject to such direction. R.S.O. 1937, c. 83, s. 3. Duties and expenditure.
- 4.—(1) The county council shall in each year on or before a date to be fixed by the Minister of Agriculture pay into a bank to the credit of the agricultural representative in charge of each office in the county the sum of \$500 for the purpose of assisting in carrying on the work of the agricultural representative, and such sum shall be paid out from time to time by the agricultural representative with the approval of the Minister of Agriculture or of the officer designated as provided in section 3. County grants.
- (2) An annual statement of the disposition of the sum so set apart together with a statement of the work carried on by each agricultural representative in the county during the preceding year shall be furnished to the county council. R.S.O. 1937, c. 83, s. 4. Annual statement.

CHAPTER 13

The Agricultural Societies Act

1. In this Act,

Interpreta-
tion.

- (a) "board" means the board of a society;
- (b) "Department" means Department of Agriculture;
- (c) "headquarters" means the place named as the headquarters in the declaration forming a new society or the place approved or named as the headquarters by the Minister or the place where a society held its last annual exhibition;
- (d) "Minister" means Minister of Agriculture;
- (e) "society" means agricultural society organized under this Act or under any predecessor of this Act;
- (f) "Superintendent" means Superintendent of Agricultural Societies. 1939, c. 1, s. 1.

2. The Minister may decide all matters of doubt or dispute arising in the operation or construction of this Act and his decision shall be final, provided that an appeal from any decision of the Minister may be made to the Lieutenant-Governor in Council. 1939, c. 1, s. 2.

Powers of
Minister.

3.—(1) Subject to the provisions of this section a society may be organized with headquarters at any place in Ontario.

Organiza-
tion.

(2) When it is proposed to organize a society with headquarters within twenty-five miles of an existing society the officers of such existing society shall be afforded a reasonable opportunity to make recommendations to the Minister regarding the advisability of organizing the proposed society, and the Lieutenant-Governor in Council may, upon the recommendation of the Minister, grant permission for the organization of any such proposed society. 1939, c. 1, s. 3.

Recom-
mendations
of existing
society.

4. The mode of organization shall be as follows:

Mode of
organiza-
tion:

- (a) A declaration in the form prescribed by the Minister shall be signed by the persons who desire to organize a society, provided that such persons shall be of the

Declaration.

age of eighteen years or over and shall reside within ten miles of the place designated in the declaration as the headquarters of such society.

Signatories
to declara-
tion.

- (b) The declaration shall be signed by at least sixty persons, provided that in provisional judicial districts and provisional counties the number required to sign the declaration shall be forty.

Fees payable
by signator-
ies.

- (c) Every person who signs the declaration shall pay to the person having charge thereof, the sum of not less than \$1 at the time of signing such declaration and all such sums of money shall become the property of the society upon its organization, provided that where no society is organized such sums shall be repaid to the persons entitled thereto.

Transmitting
declaration.

- (d) Within one month after the required number of persons have signed the declaration, such declaration shall be forwarded to the Superintendent who may, with the approval of the Minister, authorize any person to call a meeting for the organization of the society.

Calling first
meeting.

- (e) Such organization meeting shall be held during the month of January, or at such other time as the Superintendent may authorize, upon at least two weeks notice published in a newspaper having a general circulation in the district surrounding the headquarters of the society and by mailing a notice by prepaid post to each person who has signed the declaration.

Quorum.

- (f) At the organization meeting and at every annual and special meeting of a society, fifteen members shall form a quorum.

Election of
officers.

- (g) At the organization meeting there shall be elected a board of twelve directors who shall hold office until the next annual meeting or until their successors are elected, and such directors shall elect a president, a first vice-president and a second vice-president from among themselves.

Board.

- (h) The board shall consist of the directors and the president, first vice-president and second vice-president.

Auditors.

- (i) At the organization meeting there shall be elected two auditors who shall hold office until the next annual meeting.

- (j) A report of the organization meeting, certified by the president, the secretary and the organizer, containing a statement of the members and a list of the officers elected and appointed, shall be sent to the Superintendent within one week after the holding of the meeting. 1939, c. 1, s. 4.
- Transmission of report of organization meeting.

5.—(1) Upon receipt of the report mentioned in clause j of section 4, the Superintendent, with the approval of the Minister, may declare such society to be a society within the meaning of this Act and such society shall bear the name designated in the declaration as the headquarters or such other name as may be determined by the members and approved by the Minister.

Declaration of society.

(2) In case of a dispute as to the name of any society, or in any case where in the opinion of the Minister the name of a society prejudicially affects the interest of another society he may change the name of the society. 1939, c. 1, s. 5.

Change of name.

6.—(1) Every person of the age of eighteen years or over shall be entitled to become a member of a society.

Persons entitled to membership.

(2) Subject to the by-laws of a society, a firm or an incorporated company may become a member thereof by the payment of the regular fee, but the name of one person only shall in any one year be entered as the representative or agent of such firm or company, and that person only shall exercise the privileges of membership in the society.

Firms and companies may be members.

(3) In every society there shall be an annual membership fee of not less than \$1. 1939, c. 1, s. 6.

Membership fee.

7.—(1) Upon the recommendation of the Superintendent the Minister may authorize any society to elect not more than six additional directors and not more than six junior directors not over thirty years of age.

Additional directors.

(2) Any society may appoint not more than six honorary directors, provided that such honorary directors shall not be entitled to vote or take part in meetings of the board. 1939, c. 1, s. 7.

Honorary directors.

8.—(1) The objects of a society shall be to encourage interest, promote improvements in and advance the standards of agriculture, domestic industry and rural life by,

Objects of society.

- (a) surveying and studying the agricultural and living conditions and by doing such acts as may assist in

solving the rural economic and social problems of the district surrounding the headquarters of the society;

- (b) organizing and holding agricultural exhibitions and awarding premiums thereat;
- (c) holding public meetings and demonstrations for the purpose of discussing agricultural problems;
- (d) owning pure bred live stock, and by distributing seeds and plants;
- (e) taking action to eradicate poisonous and noxious insects, weeds, animal parasites and diseases;
- (f) encouraging and promoting reforestation and rural beautification;
- (g) providing seed cleaning plants, grading machinery and storage facilities; and
- (h) encouraging young people to become interested in and adopt better agricultural and domestic practices and for such purposes to hold competitions.

When grant
forfeited.

(2) Any society which expends any of its funds in any manner inconsistent with the objects set out in subsection 1 shall forfeit all claims to participate in any legislative grant. 1939, c. 1, s. 8.

Annual
meeting.

9.—(1) Every society shall hold an annual meeting during the month of January at such time and place as the board may determine or, subject to the approval of the Superintendent, at such other time and place as may be fixed by the by-laws of the society.

Who may
vote.

(2) At any such meeting only those members who were members of the society during the previous year and who have paid the membership fee for the current year shall be entitled to vote.

Notice of
annual
meeting.

(3) At least two weeks notice of every annual meeting shall be given by publication of a notice of such meeting in at least one newspaper having a general circulation in the municipality in which the headquarters of the society is situate and by mailing notices of such meeting to every member of the society at the address furnished to the secretary.

(4) When any society fails to hold its annual meeting at the time mentioned in subsection 1, the Minister may appoint a time and place for holding such annual meeting. 1939, c. 1, s. 9. Minister may appoint time for meeting.

10. At every annual meeting,

Procedure at annual meeting.

(a) the board shall present a report of the activities and accomplishments of the society since the last annual meeting and a detailed statement of the receipts and expenditures since the last annual meeting and a statement of the assets and liabilities of the society, certified by the auditors, in the form prescribed by the Minister; and

(b) the officers and other members of the board, including the auditors, shall be elected and appointed in the manner provided by section 4 and any additional, honorary and junior directors shall be elected and appointed. 1939, c. 1, s. 10.

11.—(1) A statement of officers and members and a copy of the report and financial statement in the form prescribed by the Minister and certified by the president, secretary and treasurer, or secretary-treasurer and auditors to be true copies shall be forwarded to the Superintendent within one month after the holding of the annual meeting. Statement to be sent to Superintendent.

(2) The officers of every society shall on or before the 1st day of March in every year forward to the Superintendent a return in the form prescribed by the Minister verified by an affidavit of an officer of the society showing the amount expended during the previous year by such society for agricultural purposes. Annual returns.

(3) Where a society holds a spring stallion show, a spring bull show, a combined spring stallion and bull show, or a field crop or other competition, the officers of the society shall within one month after the holding of such spring show or competition forward to the Superintendent on a form supplied by the Department and verified by affidavit, an itemized statement showing the receipts and expenditures including prizes awarded in connection therewith, together with the number of entries. Statement of expenses.

(4) Any officer of a society who wilfully makes a false statement in any report or statement required to be furnished under this Act, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 Penalty for false statement.

or to imprisonment for not more than thirty days; provided that no prosecution under this subsection shall be commenced later than one year after the making of such report or statement. 1939, c. 1, ss. 11, 32 (2).

Special
meeting.

12. On the petition of thirty members of a society, the secretary, and in his absence, the president or first vice-president, shall call a special general meeting for the transaction of the business mentioned in the petition and the meeting shall be advertised in the manner prescribed by subsection 3 of section 9 and the advertisements shall state the nature of the business to be transacted. 1939, c. 1, s. 12.

Minister
may require
information.

13. The Minister may at any time require any society or any officer of a society to furnish such information regarding the society as he may deem necessary or desirable and such information shall be accompanied by an affidavit of all or any of the officers of the society deposing to its accuracy. 1939, c. 1, s. 13.

Dissolution
in certain
instances.

14.—(1) In the event of failure to hold the annual meeting of a society in accordance with this Act, or in the event of the number of members of a society on the 1st day of September in any year, being less than the number required for organization, such society shall not be entitled to receive any further government grant and shall be deemed to be dissolved, subject always to the direction of the Minister, provided that the persons comprising the board during the last year of the existence of such society shall be trustees of the assets of the society and shall forthwith deliver to the Superintendent a statement of the assets and liabilities of the society.

Payment of
debts on
dissolution.

(2) Subject to the approval of the Minister, the Superintendent may direct the members of the board to pay the debts of the society out of the moneys and other assets remaining in their hands and to liquidate any of the assets for such purpose.

Disposition
of assets
after debts
paid.

(3) Subject to the approval of the Minister, any moneys and other assets remaining after the payment of debts shall be disposed of by the board in such manner as they may determine.

Reorganiza-
tion.

(4) When a society dissolves or ceases to exist it may be reorganized *mutatis mutandis* in the manner prescribed by section 4. 1939, c. 1, s. 14.

Meetings
of board.

15. A meeting of the board shall be called by the secretary upon the direction of the president, or in his absence by the

first vice-president, or in the absence of the president and the first vice-president, by the second vice-president, or by any three members of the board, by sending notice thereof to all the members of the board at least seven days prior to the time fixed for such meeting, provided that a meeting of the board may be held immediately following any annual, regular or special meeting of the society without notice. 1939, c. 1, s. 15.

16.—(1) Subject to the by-laws and regulations of the society, the board shall have power to act for and on behalf of the society in all matters. Powers of board.

(2) Seven of the members of the board shall constitute a quorum. Quorum.

(3) In the event of a vacancy occurring on the board by the death or resignation of any officer or director or otherwise, the remaining members of the board shall have power to appoint any member of the society to fill such vacancy, provided that when three or more vacancies occur at the same time the Superintendent may order the remaining members of such board to call a special general meeting of such society in the manner prescribed by section 9 and directors shall be elected and appointed at such meeting to fill the vacancies. Filling vacancies.

(4) The board, from among themselves, may appoint an executive committee of not more than five members to exercise and perform such of its powers and duties as the board may prescribe. Executive committee.

(5) The board may appoint a manager to perform such of its powers and duties as it may prescribe. Manager.

(6) The board, from among themselves or otherwise, shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure, and the secretary or secretary-treasurer shall be a member of every committee which may be appointed by the board and may be appointed managing director acting under the control and with the approval of the board. Secretary. treasurer.

(7) No officer of a society except the secretary, treasurer, secretary-treasurer or manager shall receive any remuneration, provided that travelling and living expenses may be allowed to any officer while engaged in duties on behalf of such society and the board may fix such remuneration and travelling and living expenses which shall be payable out of the funds of the society. 1939, c. 1, s. 16. Salaries.

Meetings.

17. Subject to section 9, the board may determine what regular or special meetings of the society shall be held during each year. 1939, c. 1, s. 17.

Security by treasurer of society.

18.—(1) The treasurer or secretary-treasurer of every society, before entering upon the duties of his office, shall give such security to the society, either by joint or several covenant with one or more sureties, in such form and for such amount as the board may deem necessary for the faithful performance of his duties, and especially for the due accounting for and paying over all moneys which may come into his hands.

Duty of board as to security.

(2) It shall be the duty of the board in each and every year to inquire into the sufficiency of the security given by such treasurer or secretary-treasurer and to report thereon to the society, and where the same treasurer or secretary-treasurer for any society is reappointed from year to year his reappointment shall not be considered as a new term of office, but as a continuation of the former appointment, and any security given to the society for the faithful performance of his duties under such reappointment shall continue valid as against the parties thereto.

Personal responsibility of officers for loss.

(3) If the board neglects to procure and maintain proper and sufficient security each member thereof shall be personally responsible for all funds of the society that may have been received by the treasurer. 1939, c. 1, s. 18.

By-laws and regulations.

19.—(1) By-laws and regulations of a society may be made, adopted, amended or repealed at any organization, annual or regular meeting of the society or at a special meeting of which notice has been given in the manner provided by subsection 3 of section 9.

Preventing certain performances, huckstering, etc.

(2) The officers of a society may by their rules and regulations prohibit and prevent theatrical, circus or acrobatic performances, exhibitions or shows and may also regulate or prevent the huckstering or trafficking in fruits, goods, wares or merchandise on the exhibition grounds or within three hundred yards thereof on the day of an exhibition, and any person who, after notice of such rules and regulations, violates any provisions thereof shall be liable to be removed by an officer of the society or any constable and shall be liable to the penalties provided in this Act. 1939, c. 1, s. 19.

Incorporation and power to hold land.

20.—(1) Every society shall be a body corporate, with power to acquire and hold land as a site or as an enlargement of an existing site and the society shall have and may exercise

the like powers as to lands required for the enlargement of an existing site as in the case of lands required for the original site, for fairs and exhibitions, and, subject to the approval of a meeting of the society called for that purpose may sell, mortgage, lease, or otherwise dispose thereof, or of any other property held by such society, provided that no lands of a society shall be mortgaged without the written approval of the Superintendent.

(2) At least two weeks previous notice of such meeting shall be given by advertisement in not less than one newspaper having a general circulation in the district surrounding the headquarters of the society, and at such meeting only those persons shall be entitled to vote who are members for the current year and who were members for the two previous years. 1939, c. 1, s. 20.

Notice of meetings to consider disposition of property.

21.—(1) Subject to the approval of the Lieutenant-Governor in Council, if the owner of the land selected as a site for fairs and exhibitions, approved of at a meeting of the society called for that purpose, refuses to sell such land or demands therefor a price deemed unreasonable by the board, such owner and the board shall each forthwith appoint an arbitrator, and the arbitrators so chosen shall appoint a third arbitrator, and such arbitrators or a majority of them shall determine the value of such land.

Acquiring site; arbitration to fix price.

(2) If the directors or the owner of such land neglect or refuse to appoint an arbitrator, the judge of the county or district court of the county or district in which the land is situate may, on the application of the party who has so appointed an arbitrator and on notice to the opposite party, appoint an arbitrator on behalf of the party so neglecting or refusing to appoint an arbitrator and if the arbitrators appointed as aforesaid fail to agree on, or either of them refuses to appoint a third arbitrator, the judge of the county or district court of the county or district in which the land is situate may, on the application of one or other of the said arbitrators and on notice to the other, appoint a third arbitrator.

Appointment of arbitrator by county judge.

(3) The arbitrators so appointed shall have the power to hear and determine all claims or rights of encumbrancers, lessees, tenants or other persons as well as those of the owner of the land required for the purpose of such site upon notice in writing to every such claimant or person.

Powers of arbitrators.

(4) Upon payment by the board of the amount determined by a majority of the arbitrators, to the owner or other persons

Payment of compensation.

entitled thereto, the land may be taken and used for the purposes of the society.

Effect of
award.

(5) Any award for a site for fairs and exhibitions made and published twice in a newspaper having a general circulation in the district surrounding the headquarters of the society, shall, if there be no conveyance, be deemed to vest the title of the site in the society, and the title of the society shall be good against all persons interested in the land in any manner whatever, and shall be registered in the proper registry office, or land titles office, with the affidavit of the secretary and treasurer or secretary-treasurer of such society verifying such award and the publication thereof.

Expenses of
arbitration.

(6) The parties concerned in all such disputes shall pay all the expenses incurred in regard to them, according to the award or decision of the arbitrators or a majority of them. 1939, c. 1, s. 21.

Joint own-
ership of
lands with
municipality.

22. Any township society and town or village municipality that had, prior to the 4th day of March, 1868, jointly purchased and held any land or buildings for the purpose of agricultural fairs or exhibitions, may continue jointly to hold such land or buildings, or may sell, mortgage, lease or otherwise dispose thereof, subject to the approval of a meeting of the society as provided in section 20. 1939, c. 1, s. 22.

Grants out
of provincial
fund.

23. On the recommendation of the Minister, every society shall be entitled to receive a grant out of the moneys appropriated by the Legislature for such purpose on condition,

- (a) that the number of paid-up members for the current year is not less than sixty, except in the case of societies organized in provisional judicial districts or unorganized counties, where the number of paid-up members shall not be less than forty;
- (b) that all reports and returns required by this Act have been made to the satisfaction of the Superintendent;
- (c) that the annual meeting has been held as required and the officers elected, in accordance with section 10;
- (d) that the objects of the society as prescribed by section 8 have been strictly adhered to, and that none of the funds of the society, from whatever source derived, have been expended in any manner not in harmony with such objects; and
- (e) that all other provisions of this Act have been complied with. 1939, c. 1, s. 23.

24.—(1) Such moneys as may be appropriated by the Legislature for the purposes of grants under this Act, except the moneys appropriated under sections 25 and 26, shall be subject to division among the societies according to the following plan,

Division of
provincial
grant.

- (a) a society that has owned and maintained pure bred stock, for the benefit of its members, for a period of at least nine months during the next preceding year, shall receive a grant of \$100 for every registered stallion, \$25 for every registered bull, \$10 for every registered boar and \$5 for every registered ram owned by such society, and in the event of a society devoting its funds solely for the maintenance of pure bred stock, such society shall receive a special membership grant of \$1 for every member of the society in good standing, up to fifty;
- (b) a newly organized society, during the first three years of its existence, shall receive a grant each year equal to \$1 per member up to three hundred members;
- (c) a society which holds a spring stallion show, a spring bull show, or a combined spring stallion and bull show shall receive a grant equal to one-half the sum expended in the holding of such show, provided that no society shall be entitled to receive a sum in excess of \$50 for any such show or competition; and
- (d) the balance of moneys remaining after the other grants in this section have been provided for shall be subject to division among the societies, other than new societies, in proportion to the amount such societies expended during the three preceding years for agricultural purposes as shown in the statements forwarded to the Superintendent provided that,
 - (i) societies in provisional judicial districts and unorganized counties shall be entitled to receive their grants on the basis of double the amount of other societies, and
 - (ii) no society shall in any year be entitled to receive a grant in excess of \$800. 1939, c. 1, s. 24 (1); 1943, c. 28, s. 3; 1950, c. 2, s. 1.

(2) If the Superintendent, upon receiving proof on or before the 31st day of October in any year, by the joint affidavit of the president, secretary and treasurer or secretary-treasurer

Allowance
where gate
receipts
reduced.

of an agricultural society that rain or snow has fallen at the place of holding an exhibition before three o'clock in the afternoon on any day during which such exhibition was held or that during such exhibition or within thirty days prior thereto, one or more buildings on the exhibition grounds was destroyed by fire or storm, is satisfied that as a consequence of such weather or such destruction the gate receipts were less than the average gate receipts for exhibitions held by the society during three previous normal years, such society shall be entitled to receive a grant of not more than ninety per cent of the difference between the gate receipts of the current year and the average amount of the gate receipts of such three previous years, provided that no society shall in any year receive a grant in excess of \$500 for any such loss in gate receipts.

Grant where gate receipts reduced owing to wet weather.

(3) In the event of a society which has been organized for only two years suffering loss in gate receipts owing to wet weather, it shall be entitled to receive a grant equal to seventy-five per cent of the difference between the gate receipts of the current year and those of the previous year, and in case of loss of gate receipts from the above cause during the third year of a society's existence, the grant shall be seventy-five per cent of the difference between the gate receipts of that year and those of the average of the two previous years, provided that no society shall in any year receive a grant in excess of \$500 for any such loss in gate receipts. 1939, c. 1, s. 24 (2, 3).

Special aid to certain exhibitions.

25. Such amount of money as may be appropriated by the Legislature for the purpose of this section shall be subject to division among The Canadian National Exhibition Association of Toronto, The Central Canada Exhibition Association of Ottawa, and The Western Fair Association of London in proportion to the amount of money expended for agricultural purposes by such associations as mentioned in section 8, provided that not more than \$2,500 shall be paid to any such association and upon condition,

- (a) that returns have been made to the Superintendent similar to those prescribed by section 11 in a manner satisfactory to the Superintendent;
- (b) that no other grants have been received under this Act; and
- (c) that the Minister has given his approval to such grant;

provided that no such society shall in any year be entitled to receive a grant in excess of fifty per cent of the moneys

appropriated by the Legislature for the purpose of this section for such year. 1939, c. 1, s. 25.

26.—(1) The Minister may make an annual grant to any society on account of capital expenditure out of such moneys as may be appropriated by the Legislature for the purpose. Grants on account of capital expenditure.

(2) The amount of an annual grant under subsection 1 shall not exceed, 1 Limitation of annual grant.

(a) one-third of the amount of the capital expenditure; or

(b) the amount of the grants received from municipalities on account of the capital expenditure; or

(c) the amount of the grant received from the Government of Canada on account of the capital expenditure. 1950, c. 2, s. 2.

27.—(1) The municipal council of any city, town, village, county or township in Ontario may grant or loan money or grant land in aid of any agricultural society formed within the limits of the municipality or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such society has made the returns required by this Act, provided that the total amount or value of the money or land heretofore or hereafter granted or loaned by any municipality to an agricultural society under this section shall not exceed, in the case of a city, \$5,000, in the case of a town, \$2,000, and in the case of a village, \$1,000. Grants from municipal councils.

(2) If such grant is a loan of money to enable the society to acquire land, such municipality may hold the land so acquired or may take a mortgage thereon, as security for the amount of such grant until the amount of such grant is repaid to the municipality, and any such grant heretofore made in accordance with this Act shall be legal and valid. Security for loans from municipalities.

(3) Any such municipality owning land or buildings for public purposes shall have the power to make agreements on such terms and for such periods as they may deem expedient with any company formed under chapter 196 of the Revised Statutes of Ontario 1897, or under any enactment that may be substituted therefor, or with any agricultural society for the use of such land or buildings, or either of them or for the privilege of erecting upon such land, subject to such terms as may be agreed upon, such buildings as it may require for Agreements as to use of buildings.

agricultural and industrial shows, and to give the company the power of renting such grounds and buildings when owned by the company, to any agricultural society formed under this Act for the purposes of the annual show of the society, and to grant to such company or society the power to collect during such show, or at other times, as may be agreed, from any person wishing to go into or upon any such grounds or buildings, or for any privilege thereon, or for any carriage, wagon or other vehicle, or for any horse or other animal that may be taken thereon, such entrance fee or other charge as the company or society may deem necessary or expedient.

By-laws for common use of buildings on municipal property.

(4) Any municipality may pass by-laws providing for the erection of buildings upon parks, fair grounds or other property belonging to any such municipality, for the joint purposes of the municipality and of any agricultural society, or other body, or trustees for any club or society, upon such agricultural society, other body, or trustees undertaking to contribute to the cost of such building, and in such case, the municipality shall have power to grant leases for a term not exceeding twenty-one years, to such agricultural society, other body, or trustees, for the use of such building at such time as to the council may seem proper, and upon such terms as may be arranged with the council, and the powers hereby granted may be exercised in respect of any building erected since the 1st day of January, 1919. 1939, c. 1, s. 26.

Exemption from taxation.

28. The property of an agricultural society shall be exempt from taxation other than taxes for local improvements when in actual occupation by the society, or by its tenants if the rent is applied solely for the purposes of the society. 1939, c. 1, s. 27.

Regulations.

29. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make regulations,

- (a) providing the terms and conditions upon which any society may hold races or trials of speed for horses and the amount of money that any society may award as prizes therefor;
- (b) subject to the provisions of section 23, prescribing the terms and conditions upon which societies may be entitled to receive grants out of the moneys appropriated by the Legislature;
- (c) limiting the exhibitors of any society to persons residing within defined areas;
- (d) prescribing the powers and duties of the officers of a society;

- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1939, c. 1, s. 28.

30.—(1) Any justice of the peace having jurisdiction in any city, town, village or township, wherein a fair or exhibition is held, shall, on the request of the president or executive committee of any society, appoint as many constables as may be required. Appointment of constables.

(2) Such constables shall be paid by the society and it shall be their duty to protect the property of the society within the exhibition grounds, and to eject all persons who may be improperly within the grounds, or behave in a disorderly manner, or violate any of the rules or regulations of such society. 1939, c. 1, s. 29 (1, 2). Duty of constables.

(3) Every person who wilfully hinders or obstructs the officers or servants of any society or any constable appointed under this section in the execution of their duties, or who gains admission to the grounds contrary to the rules of the society shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$1 and not more than \$20, to be paid to such society for its use and benefit. 1939, c. 1, ss. 29 (3), 32 (2). Interfering with officers. penalty.

31. The Minister may appoint a person to inspect the books and accounts of any society receiving government grants under this Act, and may empower such person to summon witnesses and enforce the production of documents before him, and to take evidence upon oath in regard to the matters under inspection, and every officer of a society shall, when required, submit the books and accounts thereof to such inspection. 1939, c. 1, s. 30. Inspection.

32. Where the board of a society has reason to believe that any member or other person exhibiting any farm product, animal, fowl or other goods at any exhibition of the society has committed a fraud or made any misrepresentation in respect of any such farm product, animal, fowl or other goods, the board may withhold payment or delivery of any premium or prize to such person until such person proves to the satisfaction of the board that no fraud or misrepresentation has in fact been committed or made. 1939, c. 1, s. 31. Fraud or misrepresentation by an exhibitor.

33. Every person who violates any of the provisions of this Act or the regulations shall be guilty of an offence and on summary conviction where no other penalty is provided shall be liable to a penalty of not more than \$50. 1939, c. 1, s. 32. Penalty.

CHAPTER 14

The Alberta Coal Sales Act

1. Every person who advertises in Ontario in any newspaper or by poster, circular or in any other manner, that he is importing into Ontario or selling or offering for sale or delivery in Ontario coal produced in Alberta shall state in such advertisement the name of the area or district in Alberta in which such coal was produced and the trade name under which the same is registered in Alberta. R.S.O. 1937, c. 306, s. 1. Particulars to be stated in advertising Alberta coal.
2. Every person who by himself, his servant or agent sells or delivers, or offers for sale or delivery in Ontario by wholesale or retail, coal produced in Alberta, shall deliver to the purchaser a bill, weight-ticket, invoice or sale note which shall state the area or district in which such coal was produced and the trade name under which the same is registered in Alberta. R.S.O. 1937, c. 306, s. 2. On sale notes, etc.
3. Every person who, by himself or his servant or agent, sells or delivers in Ontario coal produced in Alberta in contravention of the foregoing provisions of this Act or any of them, shall be liable to a penalty of not less than \$20 and not more than \$200 and in default of payment shall be liable to imprisonment for a term of not more than three months. R.S.O. 1937, c. 306, s. 3. Penalty for omission.
4. Every person, who being the importer or vendor of coal produced in Alberta for delivery in Ontario by wholesale or retail, in any advertisement in a newspaper, circular or poster, or in any other document or publication, or upon any bill, weight-ticket or invoice makes any false or untrue statement as to the name of the area or district in Alberta in which such coal was produced, or as to the trade name of such coal as registered in Alberta shall be liable to a penalty of not less than \$100 and not more than \$500 and in default of payment shall be liable to imprisonment for a term of not more than six months. R.S.O. 1937, c. 306, s. 4. For false statements.

CHAPTER 15

The Aliens' Real Property Act

1. On and from the 23rd day of November, 1849, every alien shall be deemed to have had and shall hereafter have the same capacity to take by gift, conveyance, descent, devise, or otherwise, and to hold, possess, enjoy, claim, recover, convey, devise, impart and transmit real estate in Ontario as a natural born or a naturalized subject of His Majesty. Aliens to have the same powers as to real estate as subjects of His Majesty. R.S.O. 1937, c. 151, s. 1.

2. The real estate in Ontario of an alien dying intestate shall descend and be transmitted as if the same had been the real estate of a natural born or naturalized subject of His Majesty. Descent of real estate of aliens. R.S.O. 1937, c. 151, s. 2.

CHAPTER 16

The Anatomy Act

1. In this Act, "school" means the Faculty of Medicine of the University of Toronto, of Queen's University, of the University of Western Ontario or of the University of Ottawa, the Hamilton School of Anatomy and the Canadian Memorial Chiropractic College, and includes any other institution which the Lieutenant-Governor in Council may declare to be a school for the purposes of this Act. R.S.O. 1937, c. 226, s. 1; O.Reg. 8/48; O.Reg. 77/50, *amended*. Interpretation.

2. The Lieutenant-Governor in Council may appoint a general inspector of anatomy for Ontario and local inspectors for such places as may be deemed advisable, and may make regulations defining the duties of the general inspector and imposing duties on the local inspectors in addition to the duties imposed by this Act and otherwise for carrying out this Act, and may fix the fees to be received by the general inspector and local inspectors for services performed under this Act and under such regulations. R.S.O. 1937, c. 226, s. 2. Appointment of inspectors of anatomy.

3.—(1) The body of any dead person found publicly exposed or sent to a public morgue, upon which a coroner after having viewed it deems an inquest unnecessary or of any person who immediately before death was supported in and by any public institution, shall be immediately placed under the control of the local inspector of anatomy. Disposal of certain bodies for study of anatomy.

(2) Unless such body within twenty-four hours after being so found or sent to a public morgue, or after death where the death takes place in a public institution, is claimed by, Where not claimed.

(a) a relative or a *bona fide* friend; or

(b) a person who produces an order made under subsection 3 and pays \$5 to defray the funeral expenses; or

(c) in the case of the body of a person who was supported in a county home for the aged, a county councillor,

the same shall be delivered by the local inspector to some person qualified as hereinafter provided.

Order by
magistrate.

(3) An order (Form 1) may be obtained from the magistrate, or where there is no magistrate, from a justice of the peace having jurisdiction in the locality.

Where not
to apply.

(4) This section shall not apply to the body of a mentally incompetent person who has died in an institution under *The Mental Hospitals Act*. R.S.O. 1937, c. 226, s. 3.

Rev. Stat.,
c. 229.

Duty of
interment.

4.—(1) It shall be the duty of the relative or friend to whom a dead body is delivered under section 3 to cause it to be decently interred, or he may upon payment to them of \$5, require the authorities under whose care the dead body was, to inter it.

County's
liability for
expense.

(2) Where the body of a person who dies in a county home for the aged is delivered to a county councillor as provided by subsection 2 of section 3 the body shall be decently interred and the county shall bear the expense of burial to the extent of \$30. R.S.O. 1937, c. 226, s. 4.

To whom
unclaimed
bodies shall
be delivered.

5. The persons qualified to receive such unclaimed bodies shall be the teachers of anatomy or surgery in a school, and if there is any school in the locality where there is a body to be delivered to persons so qualified, such school shall have the first claim to the body. R.S.O. 1937, c. 226, s. 5.

Body
delivered
to school may
be claimed
by friends.

6.—(1) Any school obtaining a body shall keep and preserve the same for not less than fourteen days, and in the event of a relative or *bona fide* friend claiming it within that time the school shall deliver the body to such relative or friend upon receipt of the reasonable costs and charges for preserving and keeping the same, not to exceed \$10.

Records.

(2) Every such school shall keep such records as may be prescribed by the regulations, and the same shall at all times be open to inspection by the general inspector and by a local inspector. R.S.O. 1937, c. 226, s. 6.

Duties of
local
inspector.

7. Every local inspector of anatomy shall,

- (a) keep a register showing the name, age, sex, birth-place and religious denomination of every person whose unclaimed body has been received by him, and the name of the school to which such body was delivered, with the date of delivery;
- (b) keep a register of the schools qualified to receive and desirous of receiving bodies for the instruction of students;

- (c) subject to section 5 distribute all bodies, in rotation, to such schools in proportion to the number of persons actually engaged in the study of human anatomy in each school, as shown by their official registers, which he shall be allowed to inspect; R.S.O. 1937, c. 226, s. 7, cls. (a-c).
- (d) keep his registers open for the inspection of any registered medical practitioner who may desire to inspect them;
- (e) enter in the morgue register, for the purpose of identification, a description of every body received by him, and of the clothing and effects found thereon, and the name of the school to which such body was delivered; and
- (f) furnish to the general inspector the name of the deceased and of the school to which the body was sent. R.S.O. 1937, c. 226, s. 7, cls. (e-g).

8. Every local inspector shall, without delay, give notice of his appointment to all persons mentioned in sections 9 to 12. R.S.O. 1937, c. 226, s. 8. Notice of appointment.

9. Every coroner, whether he does or does not hold an inquest on a body found publicly exposed, to which his attention has been called, and which is not claimed in accordance with section 3, shall give notice to the local inspector, if there is one, and if there is none, he shall cause the body to be interred at the expense of the municipality in which it was found. R.S.O. 1937, c. 226, s. 9. Duty of coroner.

10. Where the body is placed in a public morgue the person in charge of the morgue shall forthwith give notice thereof to the local inspector. R.S.O. 1937, c. 226, s. 10. Duty of person in charge of morgue.

11. The head of any municipality in which a dead body to which this Act applies is found and of which he has notice shall cause notice thereof to be given within twenty-four hours to the local inspector. R.S.O. 1937, c. 226, s. 11. Duty of head of municipality.

12.—(1) The superintendent of every public institution to which this Act applies shall, upon the death of an inmate of the institution, give notice thereof within twenty-four hours to the local inspector. Duty of superintendent of public institution.

(2) Every such superintendent shall keep a register showing the name, age, sex, birthplace and religious denomination Register to be kept by superintendent.

of each person whose body is disposed of under this Act, and the school to which such body is delivered, and shall file all documents furnished by persons claiming bodies, and such register and documents shall be open for inspection.

Body to be delivered to school on order only.

(3) No superintendent shall deliver a body to a school except on the written order of the local inspector. R.S.O. 1937, c. 226, s. 12.

Schools availing themselves of this Act to give security.

13. A school desiring to avail itself of the benefits of this Act shall give a bond to the general inspector in the sum of \$80, with two sufficient sureties to his satisfaction in the sum of \$40 each, for the decent interment of the bodies after they have served the purposes required, and thereupon the general inspector shall deliver to such school a written authority to open a practical anatomy room entitled to the benefits of this Act. R.S.O. 1937, c. 226, s. 13.

Penalty for neglect of duty.

14. Every person who neglects to discharge the duties imposed upon him by this Act or any regulation made thereunder, or who contravenes any provision thereof, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20 for each offence. R.S.O. 1937, c. 226, ss. 14, 16.

Removal of bodies from Ontario.

15. No person shall send or take a dead body out of Ontario for surgical or practical anatomical purposes, and every person who contravenes this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$100 for each offence. R.S.O. 1937, c. 226, ss. 15, 16.

Shipment of body.

16. No person shall accept for shipment or ship a dead body from any place within Ontario to any place outside of Ontario unless a certificate of a duly qualified medical practitioner has been obtained certifying that the cause of death has been definitely ascertained and that there exists no other cause for inquiry or examination. 1942, c. 34, s. 2; 1946, c. 89, s. 6.

Burial of unclaimed bodies.

17. Subject to this Act, any unclaimed dead body found within the limits of a city, town, village or township shall be interred at the expense of the corporation thereof, but the corporation may recover such expense from the estate of the deceased or from any person whose duty it was to inter the dead body. R.S.O. 1937, c. 226, s. 17.

FORM 1

(Section 3 (3))

THE ANATOMY ACT

To all whom it may concern:

Whereas *A.B.* of (*here state the name, residence and occupation of the person by whom or on whose behalf the order is applied for*) has satisfied me that he is a relative (*or bona fide friend*) of *C.D.*, deceased, and is entitled to have his body delivered to him for the purpose of interment.

I hereby authorize and order every person and authority having the present custody or control of the body forthwith upon presentation of this order to deliver it to the said *A.B.* for interment.

Witness my hand and seal as Magistrate (*or Justice of the Peace*) of and for.....(*as the case may be*)
this.....day of....., 19.....

R.S.O. 1937, c. 226, Form 1.

CHAPTER 17

The Andrew Mercer Reformatory Act**1.** In this Act,Interpreta-
tion.(a) "inspector" means inspector appointed under *The Penal and Reform Institutions Inspection Act*;Rev. Stat.,
c. 273.

(b) "Minister" means Minister of Reform Institutions;

(c) "reformatory" means The Andrew Mercer Ontario Reformatory for Females;

(d) "regulations" means regulations made under this Act. R.S.O. 1937, c. 383, s. 1, *amended*.

2. The Andrew Mercer Ontario Reformatory for Females shall be for the reception, detention and employment of such female offenders as are mentioned in this Act. R.S.O. 1937, c. 383, s. 2.

Object of
reforma-
tory.

3. The Lieutenant-Governor in Council may appoint a superintendent, an accountant, a surgeon and such other officers as he may deem necessary for the reformatory. R.S.O. 1937, c. 383, s. 3.

Appoint-
ment of
officers.

4. The Lieutenant-Governor in Council may make regulations for the management and discipline of the reformatory and for prescribing the duties and conduct of the superintendent and officers and servants employed therein, which may include as part of the work thereof the visiting from time to time in Ontario of paroled and discharged inmates, with a view to continuing and prolonging the work of reformation through friendly and voluntary assistance and as to the diet, clothing, maintenance, employment, classification, instruction, discipline, correction, punishment and reward of persons detained therein. R.S.O. 1937, c. 383, s. 4.

Regulations.

5.—(1) The inspector may summarily suspend any officer for misconduct, of which the Minister shall be at once notified, and the suspension shall continue until the pleasure of the Lieutenant-Governor is known, and an inspector may, until such pleasure is intimated to him, cause any such officer so

Powers of
inspector
over officers.

suspended to be removed beyond the precincts of the reformatory.

His duty.

(2) It shall be the duty of the inspector to recommend the removal of any officer whom he deems incapable, inefficient or negligent in the execution of his duty, or whose presence in the reformatory he may deem injurious to the interests thereof, and the pay of every officer so suspended shall cease during the period of such suspension. R.S.O. 1937, c. 383, s. 5.

Encouragement of good behaviour.

6. The inspector may make rules for the keeping of a correct record of the conduct of inmates, with a view to permitting any offender to be paroled upon the recommendation of the superintendent, approved by the inspector and endorsed by the Board of Parole. R.S.O. 1937, c. 383, s. 6.

Transfer from jail to reformatory.

7. A female detained in a common jail under sentence of imprisonment for an offence against any Act of the Legislature may, by the direction and warrant of the inspector, be conveyed by a female bailiff appointed for that purpose from such common jail to the reformatory for the unexpired portion of the term of imprisonment to which she was sentenced or committed, and such female shall thereupon be imprisoned in the reformatory for the residue of the term and shall be subject to all the regulations of the reformatory. R.S.O. 1937, c. 383, s. 7.

Female convict may be sentenced to reformatory.

8.—(1) The court before which any female is convicted under any Act of the Legislature of an offence punishable by imprisonment may sentence such female to imprisonment for an indefinite period not exceeding two years in the reformatory instead of the common jail.

Female bailiff.

(2) The female shall be conveyed to the reformatory by a female bailiff. R.S.O. 1937, c. 383, s. 8.

Re-transfer to jail may be directed.

9.—(1) The Minister or such other officer as may be authorized by the Lieutenant-Governor in Council may by warrant direct the removal from the reformatory back to the common jail of any female under sentence of imprisonment for an offence against any Act of the Legislature, and the female shall thereupon be conveyed to the common jail by the female bailiff.

Officer to deliver up prisoners for removal.

(2) The superintendent of the reformatory, or the keeper of any common jail, having the custody of any female ordered to be removed shall, when required so to do, deliver her up to the female bailiff who produces the warrant, together with

a copy certified by the superintendent or jailer of the sentence and date of conviction as given to him on reception of the female into his custody. R.S.O. 1937, c. 383, s. 9.

10. Any female bailiff may convey to the reformatory any female sentenced or liable to be imprisoned therein and deliver her to the superintendent without any other warrant than a copy of the minute of the sentence taken from the records of the court before which she was tried and certified by the convicting justice or the clerk of the court, and the superintendent shall receive her into the reformatory and detain her there, subject to all the rules, regulations and discipline thereof, until the expiration of her sentence or until she is otherwise discharged in due course of law. R.S.O. 1937, c. 383, s. 10.

Copy of
sentence
sufficient
warrant.

11. The female bailiff shall give a receipt to the superintendent or jailer for the prisoner, and shall thereupon without delay convey and deliver her with the certified copy into the custody of the superintendent of the reformatory or of the jailer of the jail mentioned in the warrant, who shall give to such bailiff a receipt in writing for her, and the prisoner shall be kept in custody in such reformatory or jail until the expiration of her sentence, or until she is otherwise discharged in due course of law, unless she is in the meantime again removed under competent authority. R.S.O. 1937, c. 383, s. 11.

Officer to
give and
take receipt
for
prisoner.

12. The superintendent shall reside within the institution and shall be the chief executive officer of it and as such shall have, under the direction of the inspector, the execution, control and management of its affairs, subject to the regulations, and the superintendent shall be responsible for the faithful and efficient administration of the offices of every department of the institution. R.S.O. 1937, c. 383, s. 12.

Powers and
duties of
superin-
tendent.

13. The accountant shall give security to the satisfaction of the Minister and for such amount as he shall direct for the faithful performance of the duties of the office. R.S.O. 1937, c. 383, s. 13.

Security by
accountant.

14.—(1) The inspector shall not, nor shall the superintendent or other officer or employee of the reformatory, either in his own name or in the name of or in connection with or as the agent of any other person, provide, furnish or supply any materials, goods, or provisions for the use of the reformatory, or be concerned, directly or indirectly, in furnishing or supplying the same or in any contract relating thereto.

Officers not
to be inter-
ested in any
contract.

Penalty.

(2) Every person who contravenes any of the provisions of this section shall be liable to a penalty of \$1,000. R.S.O. 1937, c. 383, s. 14.

Officers not to engage in trade, etc., in the reformatory.

15. The superintendent shall not nor shall any officer or employee buy from or sell to any inmate in the reformatory anything whatever, or take or receive to his own use or for the use of any other person any fee, gratuity or emolument from any prisoner or visitor or any other person, or employ any inmate in working for him. R.S.O. 1937, c. 383, s. 15.

Prohibition of liquors and drugs.

Rev. Stat., c. 210.

16.—(1) Except under the regulations no morphia, cocaine or other narcotic drug, and no intoxicating liquors within the meaning of *The Liquor Control Act* shall on any pretence whatever be brought into the reformatory for the use of any officer or employee or person in the institution or for the use of any inmate therein.

Penalty.

(2) Every person, other than an officer of the reformatory acting under the regulations, who gives any intoxicating liquors, morphia, cocaine or other narcotic drug, and every officer, employee or other person who gives or conveys tobacco in any form to any inmate shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$40. R.S.O. 1937, c. 383, s. 16.

Beneficial labour.

17. The reformatory shall be furnished with all requisite means for enforcing the performance of beneficial labour by the inmates thereof. R.S.O. 1937, c. 383, s. 17.

Reformatory, what to include.

18. All the land enclosed and used in connection with the reformatory building shall be deemed to be part of the reformatory. R.S.O. 1937, c. 383, s. 18.

Inmates not to be discharged on Sunday.

19. When the term of imprisonment of any inmate expires on a Sunday she shall be discharged on the previous Saturday unless she desires to remain until the following Monday. R.S.O. 1937, c. 383, s. 19.

Detention of inmate if labouring under certain diseases.

20. No inmate shall be discharged at the termination of her sentence or transferred from the reformatory to a jail if she has syphilitic or other venereal disease, or any contagious or infectious disease, or is suffering from any acute or dangerous illness, but she shall remain in the reformatory until the surgeon certifies to the inspector that she has recovered from the disease or illness, and any inmate so remaining shall be under the same discipline and control as if her sentence were still unexpired. R.S.O. 1937, c. 383, s. 20.

21. Where an inmate at any time after admission is reported by the physician of the reformatory as being a mental defective and unable, for this reason, to take care of herself, if discharged from the reformatory, such inmate may be transferred to a suitable institution for care and training, under warrant signed by the inspector. R.S.O. 1937, c. 383, s. 2.

CHAPTER 18

The Apportionment Act

1. In this Act,

Interpretation.

- (a) "annuities" includes salaries and pensions;
- (b) "dividends" includes all payments made by the name of dividend, bonus or otherwise out of revenues of trading or other public companies divisible between all or any of the members, whether such payments are usually made or declared at any fixed times or otherwise, but does not include payments in the nature of a return or reimbursement of capital;
- (c) "rent" includes rent service, rent charge and rent seck and all periodical payments or renderings in lieu or in the nature of rent. R.S.O. 1937, c. 220, s. 1.

2. Dividends shall, for the purposes of this Act, be deemed to have accrued by equal daily increment during and within the period for or in respect of which the payment of the same is declared or expressed to be made. R.S.O. 1937, c. 220, s. 2.

Dividends, how deemed to accrue.

3. All rents, annuities, dividends, and other periodical payments in the nature of income, whether reserved or made payable under an instrument in writing or otherwise, shall, like interest on money lent, be considered as accruing from day to day, and shall be apportionable in respect of time accordingly. R.S.O. 1937, c. 220, s. 3.

Rents, etc., how to accrue and be apportionable.

Imp. Act, 33-34 V. c. 35, s. 2.

4. The apportioned part of any such rent, annuity, dividend or other periodical payment shall be payable or recoverable in the case of a continuing rent, annuity, dividend or other such payment when the entire portion, of which such apportioned part forms part, becomes due and payable, and not before, and in the case of a rent, annuity or other such payment determined by re-entry, death or otherwise, when the next entire portion of the same would have been payable if the same had not so determined, and not before. R.S.O. 1937, c. 220, s. 4.

When apportioned, part of rent, etc., to be payable.

Imp. Act, 33-34 V. c. 35, s. 3.

5.—(1) All persons and their respective heirs, executors administrators and assigns, and also the executors, administrators and assigns, respectively, of persons whose interests

Recovering apportioned parts.

determine with their own deaths, shall have such or the same remedies for recovering such apportioned parts when payable, allowing proportionate parts of all just allowances, as they respectively would have had for recovering such entire portions if entitled thereto.

Imp. Act,
33-34 V.,
c. 35, s. 4.

Proviso as
to rents
reserved in
certain
cases.

(2) The persons liable to pay rents reserved out of or charged on lands or other hereditaments, and the same lands or other hereditaments shall not be resorted to for any such apportioned part forming part of the entire or continuing rent specifically, but the entire or continuing rent, including such apportioned part, shall be recovered and received by the heir or other person, who, if the rent had not been apportionable under this Act, or otherwise, would have been entitled to such entire or continuing rent, and such apportioned part shall be recoverable by action from such heir or other person by the executors or other persons entitled under this Act to the same. R.S.O. 1937, c. 220, s. 5.

Policies of
assurance.
Imp. Act,
33-34 V.,
c. 35, s. 6.
Stipulation
against ap-
portionment.
Ibid, s. 7.

6. Nothing in the preceding provisions shall render apportionable any annual sums made payable in policies of assurance of any description, or extend to any case in which it is expressly stipulated that no apportionment shall take place. R.S.O. 1937, c. 220, s. 6.

CHAPTER 19

The Apprenticeship Act

1. In this Act,

Interpre-
tation.

- (a) “apprentice” means,
 - (i) in any of the designated trades specified in or added to Schedule A hereto a minor at least sixteen years of age who enters into a contract of service whereby he is to receive from or through his employer in whole or in part training and instruction in such designated trade, and
 - (ii) in any of the designated trades specified in or added to Schedule B hereto a person at least sixteen years of age who enters into a contract of service whereby he is to receive from or through his employer in whole or in part training and instruction in such designated trade;
- (b) “Board” means The Industry and Labour Board established under *The Department of Labour Act*; ^{Rev. Stat., c. 95.} R.S.O. 1937, c. 192, s. 1, cls. (a, b).
- (c) “designated trade” means any trade specified in or added to Schedule A or B hereto or any branch of any such trade; 1948, c. 4, s. 1.
- (d) “Director” means Director of Apprenticeship;
- (e) “employer” means any person, firm or corporation, or municipal, provincial or other public authority employing mechanics, helpers, labourers, apprentices or other employees in connection with any of the designated trades or work incidental to these trades;
- (f) “Minister” means Minister of Labour; R.S.O. 1937, c. 192, s. 1, cls. (d-f).
- (g) “probationary period” means the time during which a person eligible to be an apprentice in a designated trade is by section 7 permitted to be employed in the trade other than under a contract of apprenticeship; 1946, c. 2, s. 1 (1).

- (h) "regulations" means regulations made under this Act; R.S.O. 1937, c. 192, s. 1, cl. (g); 1946, c. 2, s. 1 (2).
- (i) "trade" includes industry, trade, craft or business and any branch of any industry, trade, craft or business;
- (j) "trade school" means any school, business, institution or establishment which trains or professes to train persons for designated trades, other than a school or college which is subject to the jurisdiction of the Department of Education. R.S.O. 1937, c. 192, s. 1, cls. (h, i).

Application of Act to designated trades.

2. This Act shall apply with respect to every designated trade. R.S.O. 1937, c. 192, s. 2.

Petition to have trade included in Schedule A or B.

3.—(1) Upon receiving a petition signed by at least twenty-five employers or employees in any trade or by not less than twenty per cent of such employers or employees, where the total number in the Province does not exceed one hundred and twenty-five, asking to have such trade added to Schedule A or B as the petition may set forth, the Board shall require the Director to inquire into the matter of the petition and he shall make such investigation as may be deemed necessary to determine whether or not such trade shall be added to Schedule A or B. R.S.O. 1937, c. 192, s. 3 (1); 1944, c. 6, s. 1.

Adding to Sched. A or B.

(2) The Lieutenant-Governor in Council upon the recommendation of the Minister, may from time to time add to Schedule A or B such other trades as may be deemed expedient. R.S.O. 1937, c. 192, s. 3 (2).

Appointment of Director and staff.

4.—(1) The Lieutenant-Governor in Council may appoint a Director of Apprenticeship for the purpose of carrying out the provisions of this Act and may also appoint such other officers, directors or clerks as may be deemed expedient.

Annual report.

(2) The Board shall submit an annual report to the Minister. R.S.O. 1937, c. 192, s. 4.

Duties of Director.

5. Subject to the regulations it shall be the duty of the Director,

- (a) to keep a register of every contract entered into by an apprentice;
- (b) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are being complied with by both employer and apprentice;

- (c) to arouse and promote interest in the adoption of apprenticeship in industries;
- (d) to assist in establishing a permanent system of training of apprentices in any industry;
- (e) to provide such information as may be required by the Board;
- (f) to collaborate with educational authorities in the training of apprentices;
- (g) generally to perform such other duties and exercise such powers as may be prescribed by the Minister to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 192, s. 5.

6. No person shall enter into any contract of apprenticeship in a designated trade except in accordance with this Act. R.S.O. 1937, c. 192, s. 6, Contracts to be in accordance with Act.

7. No person who is eligible to be an apprentice in any designated trade and has not completed the period of apprenticeship prescribed for him shall be employed in such trade for a period or periods totalling more than three months except under a contract of apprenticeship, provided that the Director may in writing authorize the further employment of any such person for a period not exceeding one month by any employer by whom he has not been previously employed. 1946, c. 2, s. 2. Apprentices to be under contract.

8.—(1) Every contract of apprenticeship shall be approved by the Board and shall be registered with the Board. R.S.O. 1937, c. 192, s. 8 (1); 1946, c. 2, s. 3. Form and registration of contracts.

(2) A contract of apprenticeship under this Act shall not be entered into for a period of less than two years. R.S.O. 1937, c. 192, s. 8 (2). Term of contract.

9. Where a person has been employed under a contract of apprenticeship in any designated trade prior to the date on which the trade was added to Schedule A or B such contract shall within three months after such date be registered at the office of the Director, but such contract shall in other respects be regarded as if this Act had not been passed. R.S.O. 1937, c. 192, s. 9. Person employed under contract.

10. Where a person is employed as an apprentice in a designated trade, but not under a contract, this Act shall in relation to any unexpired period of such apprenticeship apply as from the expiry of three months after the date on which the trade was added to Schedule A or B and the period during which any such person was employed as an apprentice Person employed without contract.

may, with the approval of the Board, be allowed as part of the time required to complete the full period of apprenticeship. R.S.O. 1937, c. 192, s. 10.

Signatures to
contract of
apprentice-
ship.

11. Every contract of apprenticeship shall be signed,

- (a) by the person to be apprenticed;
- (b) by the father of any such person who is a minor, and if the father be dead or legally incapable of giving consent or has abandoned his family; then
- (c) by the mother of such minor, and if both the father and mother are dead or legally incapable of giving consent or have abandoned their family; then
- (d) by the guardian of such minor, if any; or
- (e) if there be no parent or guardian with authority to sign then by the judge or junior or acting judge of the county or district court of the county or district in which the employer carries on [business; and
- (f) by the employer. R.S.O. 1937, c. 192, s. 11.

Registration
of contracts.

12. The registration of a contract of apprenticeship shall not be regarded as a guarantee that all the provisions of the contract are valid or that any provision thereof is not in conflict with this Act. R.S.O. 1937, c. 192, s. 12.

Termination
of contract.

13. Subject to the approval of the Board, a contract of apprenticeship may be terminated by mutual agreement of all parties thereto, or it may be cancelled by the Director, provided good and sufficient reason is adduced by the employer or apprentice or his guardian, and the fact of termination or cancellation shall be endorsed by the Director upon the copy of the contract registered in his office. R.S.O. 1937, c. 192, s. 13.

Transfer of
contract.

14. Where the terms of a contract of apprenticeship cannot be fulfilled the Director may arrange for the transfer of the apprentice to another employer but such transfer shall not be regarded as completely effected until it has been approved by the Board and registered. R.S.O. 1937, c. 192, s. 14.

Regulations.

15.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board may make regulations,

- (a) defining any designated trade;
- (b) prescribing the qualifications of persons who may become apprentices in any designated trade, the nature and number of educational classes to be attended, the course of training to be provided by the employer and the period of time in each year to be completed by an apprentice in learning his trade;
- (c) prescribing the form of contract of apprenticeship, assignment of contract, notice of transfer and such other forms as may be required;
- (d) providing for the registration of contracts of apprenticeship, assignments of contracts and notices of transfer of contracts;
- (e) prescribing the hours of labour and rates of wages for apprentices;
- (f) providing for the issuance of certificates of apprenticeship to every apprentice who serves the prescribed term of apprenticeship and completes the school training to the satisfaction of the Board, and for the issuance of duplicate certificates of apprenticeship;
- (g) providing for examinations for certificates of qualification, for the issuance, annually or otherwise, of certificates of qualification, for their cancellation, suspension and renewal, and for the issuance of duplicate certificates;
- (h) requiring all persons engaged in any designated trade, other than registered apprentices and persons employed during a probationary period, to hold a current certificate of qualification, and prohibiting the employment in any designated trade of persons who have not complied with this requirement;
- (i) providing for the issuance without examination of certificates of qualification, upon payment of the prescribed fee, to holders of certificates of apprenticeship;
- (j) prescribing the terms and conditions upon which certificates of qualification may be issued to persons engaged in a designated trade;

- (*k*) providing for the registration of employers and self-employed persons engaged in a designated trade;
- (*l*) prescribing the form of certificates of qualification, applications for certificates of qualification and renewals thereof, registration of employers and self-employed persons engaged in a designated trade, and such other forms as may be required;
- (*m*) prescribing and requiring the payment of a fee for,
 - (i) examination for certificates of qualification,
 - (ii) the issuance of certificates of qualification and renewals thereof,
 - (iii) duplicate certificates of qualification,
 - (iv) duplicate certificates of apprenticeship,
 - (v) registration of employers and self-employed persons, and
 - (vi) licences for trade-schools;
- (*n*) prescribing the purposes for which the moneys collected in registration fees may be used;
- (*o*) requiring the holder of a certificate of qualification to keep it posted conspicuously in the shop where he is engaged in a designated trade, or, where not possible, to carry it upon his person;
- (*p*) prescribing the terms and conditions upon which a licence may be issued to a trade-school and generally prescribing the method of training to be followed in the schools and the manner in which the schools are to be operated, and for the cancellation, suspension and renewal of such licences;
- (*q*) fixing the rate of assessment of employers and employees in each designated trade and governing the manner of making the assessment;
- (*r*) prescribing the constitution, powers and duties of provincial advisory committees and local apprenticeship committees and the qualifications of the members thereof;

- (s) providing for the calling of meetings of such committees and the procedure to be followed at such meetings;
- (t) providing for the books, records and forms to be used and the returns to be made by such committees;
- (u) prescribing the classes of persons in any designated trade, to whom this Act and the regulations shall apply;
- (v) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1946, c. 2, s. 4 (1); 1948, c. 4, s. 2.

(2) The Board shall have authority to hold such conferences and make such inquiries as may be deemed necessary to determine the opinions and wishes of employers and employees in the designated trades regarding suggested changes in and amendments to the Act and regulations, which may arise from time to time. R.S.O. 1937, c. 192, s. 15 (2). Board authorized to hold conferences and inquiries.

(3) A regulation passed under clause *h* of subsection 1 shall not apply to a person who within two years of the coming into force of the regulation satisfies the provincial advisory committee that at the date of the coming into force of such regulation he had been engaged in the trade for a period equal to the apprenticeship period. 1946, c. 2, s. 4 (2). Exemptions.

16.—(1) The Board shall appoint a provincial advisory committee for each designated trade, or group of trades. Advisory committee.

(2) Every provincial advisory committee shall consist of not less than five members who shall be appointed annually. Number of members.

(3) On every provincial advisory committee there shall be an equal number of employers and employees and an official or employee of the Department of Labour. R.S.O. 1937, c. 192, s. 16. Personnel of committee.

(4) The Lieutenant-Governor in Council may direct payment out of such sums as may be appropriated by the Legislature for that purpose, of the travelling expenses of the members of a provincial advisory committee and a per diem allowance for the time spent by each of the members thereof in attending meetings of the committee, and of any expenses properly incurred by such committee in carrying on its duties. Allowance and travelling expenses.

Examiners,
appoint-
ment by
board.

(5) Subject to the approval of the Minister, the Board may appoint examiners to assist in the conduct of examinations prescribed for any designated trade, and such examiners, upon the direction of the Lieutenant-Governor in Council, may be paid their travelling expenses and a per diem allowance for their services out of such sums as may be appropriated by the Legislature for that purpose. 1939, c. 2, s. 1.

Committee
may make
regulations.

17.—(1) Subject to the approval of the Board and of the Lieutenant-Governor in Council, each provincial advisory committee may make regulations in respect to the particular trade relating to all matters regarding which the Board may make regulations, providing such regulations are not inconsistent with any regulations made by the Board.

Regulations
as to age of
apprentices
and length
of service.

(2) Without limiting the generality of the foregoing and subject to the approval of the Lieutenant-Governor in Council, each provincial advisory committee shall have exclusive power to make regulations in respect to the particular trade relating to,

(a) the qualifications respecting the age of apprentices;

(b) the apprenticeship period; and

(c) the number of apprentices who may be apprenticed to each employer.

Appoint-
ment of
local
committees.

(3) Subject to the approval of the Board, each provincial advisory committee may appoint local apprenticeship committees for defined areas of the Province, and it shall be the duty of such local apprenticeship committees to advise and assist the advisory committee on all matters relating to apprenticeship in the particular trade within the defined area. R.S.O. 1937, c. 192, s. 17.

Amendment
of regula-
tions.

18.—(1) No amendment shall be made to any regulations affecting any of the matters set out in subsection 2 of section 17 unless a written notice has been given to representative organizations of employers and of employees engaged in the trade affected by such amendment, or where no organization of employers or of employees exists, to at least ten representative employers or employees, as the case may be, engaged in such trade and located in various parts of the Province, and every such notice shall state a time and place at which representatives of the employers and employees engaged in such trade may meet the provincial advisory committee for the purpose of discussing and considering such amendment.

(2) Subject to subsection 1, no amendment shall be made to any of the regulations, whether made by the Board or by a provincial advisory committee unless a written notice has been given to representative organizations of employers and of employees engaged in the trades affected by such amendment, or, where no organization of employers or of employees exists, to at least ten representative employers or employees, as the case may be, engaged in each of such trades and located in various parts of the Province, and every such notice shall state a time and place at which representatives of employers and employees engaged in such trades may meet the Board and the advisory committee of the trades affected, for the purpose of discussing and considering such amendment.

Notice of proposed amendments.

(3) Where any suggested amendment is accompanied by a written request that it be considered, signed by not less than ten employers or employees engaged in any trade affected by such suggested amendment, the Board shall provide an opportunity for the employers and employees engaged in the trade affected, or their representatives, to confer with the Board and advisory committee for such trade, providing that where the suggested amendment relates to one of the matters set out in subsection 2 of section 17, the advisory committee of the trade affected shall provide an opportunity for the employers and employees in such trade, or their representatives, to confer with the advisory committee. R.S.O. 1937, c. 192, s. 18.

Conferences between employees, employers and Board for the amendment of regulations.

19. Such courses of part or full instruction in a school, collegiate or other educational institution as may by regulation under this Act be prescribed for the training of an apprentice shall conform to *The Adolescent School Attendance Act* and *The Vocational Education Act*. R.S.O. 1937, c. 192, s. 19.

Instruction under Rev. Stat., cc. 6, 413.

20. Every person who,

Offences and penalties.

- (a) enters into a contract of apprenticeship in respect to any designated trade except in accordance with this Act; or
- (b) except as expressly provided by this Act employs any minor in a designated trade; or
- (c) contravenes any of the provisions of this Act or any regulation made thereunder,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$100. R.S.O. 1937, c. 192, s. 20.

Cost of
maintaining
system of
apprentice-
ship.

21.—(1) To defray the cost of maintaining a system of apprenticeship in any designated trade or group of trades, subject to the approval of the provincial advisory committee or committees, the Board may assess employers and employees in such designated trade or group of trades at a rate fixed by the regulations, and may require such employers and employees to pay to the Board at such times as the Board may fix, the amounts due under such assessment.

Penalty for
default in
payment of
assessment.

(2) If an assessment or any part of an assessment is not paid within the specified time, the employer shall be liable to pay as penalty for such default, five per cent of the amount for which he is in default, and if a further month or more elapses before payment is made, an additional charge of one per cent of the amount remaining unpaid shall be made for each month or fraction of a month during which the default continues.

Filing of
certificate of
assessment.

(3) Where payment of the whole or any part of the assessment is overdue, the Board may issue a certificate stating that the assessment was made, the amount remaining unpaid, the person or corporation by whom it was payable and such certificate or copy of it certified by a member of the Board to be a true copy may be filed with the clerk of any county or district court, or where the amount remaining unpaid does not exceed \$200, with the clerk of any division court, and when so filed, shall become an order of the court and may be enforced as a judgment of the court against such person or corporation for the amount mentioned in the certificate. R.S.O. 1937, c. 192, s. 21.

Trade
school
licences.

22.—(1) Subject to the regulations, the Board may issue to any person a licence to carry on the business of a trade school.

Penalty.

(2) Any person who carries on the business of a trade school without such licence shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and in default of payment to imprisonment for a term of not more than six months.

Trade
school
branches.

(3) Where the business of a trade school is carried on by means of offices, branches or agencies in different municipalities a separate licence shall be required for each of such offices, branches or agencies. R.S.O. 1937, c. 192, s. 22.

Members of
the forces.

23. Where a person has served as a member of any of the forces of His Majesty or any ally thereof, and is undertaking a course of training under a plan of rehabilitation

approved by the Board, the Board may exempt such person from the operation of such provisions of this Act and the regulations as may be deemed necessary. 1946, c. 2, s. 5; 1947, c. 101, s. 1.

SCHEDULE A

DESIGNATED TRADES

- | | |
|----------------------------|--|
| 1. Bricklayer. | 7. Plasterer. |
| 2. Carpenter. | 8. Plumber. |
| 3. Electrician. | 9. Sheet Metal Worker. |
| 4. Mason | 10. Steamfitter. |
| 5. Motor Vehicle Repairer. | 11. The trade of worker in servicing
and installing air-conditioning or
refrigerating equipment. |
| 6. Painter and Decorator. | |

R.S.O. 1937, c. 192, Sched. A; O.Reg. 13/47.

SCHEDULE B

DESIGNATED TRADES

- | | |
|------------|-----------------|
| 1. Barber. | 2. Hairdresser. |
|------------|-----------------|

R.S.O. 1937, c. 192, Sched. B.

CHAPTER 20

The Arbitration Act

1. In this Act,Interpreta-
tion.

(a) "court" means Supreme Court;

(b) "judge" means a judge of the Supreme Court;

(c) "rules of court" means the rules of the Supreme Court made under *The Judicature Act*;Rev. Stat.,
c. 190.

(d) "submission" means a written agreement to submit present or future differences to arbitration, whether or not an arbitrator is named therein. R.S.O. 1937, c. 109, s. 1.

2. This Act shall apply to an arbitration to which His Crown. Majesty is a party. R.S.O. 1937, c. 109, s. 2.**3.** This Act shall apply to every arbitration under any Act passed before or after the commencement of this Act as if the arbitration were pursuant to a submission, except in so far as this Act is inconsistent with the Act regulating the arbitration or with any rules or procedure authorized or recognized by that Act. R.S.O. 1937, c. 109, s. 3.References
under
statutory
powers.**4.** A submission, unless a contrary intention is expressed therein, shall be irrevocable, except by leave of the court, and shall have the same effect as if it had been made an order of the court. R.S.O. 1937, c. 109, s. 4.Irrevocab-
ility of
submission.**5.** A submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in Schedule A, so far as they are applicable to the reference. R.S.O. 1937, c. 109, s. 5.What sub-
mission to
include.**6.** Where a submission provides that the reference shall be to an official referee any official referee to whom application is made shall hear and determine the matters agreed to be referred. R.S.O. 1937, c. 109, s. 6.Official
referee to
act when
applied to.**7.** If any party to a submission, or any person claiming through or under him, commences any legal proceeding in any court against any other party to the submission, or anyStaying legal
proceedings
taken after
submission.

person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceeding may at any time after appearance and before delivering any pleading or taking any other step in the proceeding apply to that court to stay the proceeding, and that court, or a judge thereof, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceeding was commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceeding. R.S.O. 1937, c. 109, s. 7.

Appoint-
ment by
court.

8.—(1) In any of the following cases,

- (a) where a submission provides that the reference shall be to a single arbitrator and the persons whose concurrence is necessary do not, after differences have arisen, concur in the appointment of an arbitrator; or
- (b) where an arbitrator, an umpire or a third arbitrator is to be appointed by any person, and such person does not make the appointment; or
- (c) unless the submission otherwise provides, where an arbitrator, an umpire or a third arbitrator refuses to act or is incapable of acting or dies, and the vacancy is not supplied by the person having the right to fill the vacancy,

any party may serve the other party or the arbitrators, or the person who has the right to make the appointment, as the case may be, with a written notice to concur in the appointment of a single arbitrator or to appoint an arbitrator, umpire or third arbitrator.

When court
may appoint.

(2) If the appointment is not made within seven clear days after the service of the notice the court or a judge may, on application by the party who gave the notice, appoint an arbitrator, umpire or third arbitrator, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties. R.S.O. 1937, c. 109, s. 8.

Powers of
arbitrators.

9. An arbitrator or umpire acting under a submission shall, unless the submission expresses a contrary intention, have power,

- (a) to administer oaths to the parties and witnesses;

- (b) to state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and
- (c) to correct in an award any clerical mistake or error arising from any accidental slip or omission. R.S.O. 1937, c. 109, s. 9.

10. The time for making an award may from time to time be enlarged by the court or a judge whether or not the time for making the award has expired. R.S.O. 1937, c. 109, s. 10. Enlarging time for making award.

11.—(1) The court may remit the matters referred, or any of them, to the reconsideration of the arbitrators or umpire. Remitting for reconsideration.

(2) The arbitrators or umpire shall, unless the order otherwise directs, make the award within three months after the date of the order. R.S.O. 1937, c. 109, s. 11. When award to be made.

12.—(1) Where an arbitrator or umpire has misconducted himself the court may remove him. Removal of arbitrator.

(2) Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the court may set the award aside. R.S.O. 1937, c. 109, s. 12. Setting aside award.

13. An award may, by leave of the court or a judge, be enforced in the same manner as a judgment or order to the same effect. R.S.O. 1937, c. 109, s. 13. Enforcing award.

14. Any party to a submission may sue out of the court a writ of subpoena *ad testificandum*, or a writ of subpoena *duces tecum*, but no person shall be compelled under any such writ to produce any document which he would not be compellable to produce on the trial of an action. R.S.O. 1937, c. 109, s. 14. Subpoenaing witnesses.

15.—(1) Where a party to a submission desires to procure for use upon the reference the evidence of any person to be taken *de bene esse* or to be taken out of Ontario, an order may be made for the examination of such person or for the issue of a commission in the like circumstances and with the like effect as a similar order may be made in an action. Commission to examine witnesses.

(2) *The Judicature Act* and the rules of court shall apply to such order or commission and to the proceedings thereon and the evidence taken thereunder. R.S.O. 1937, c. 109, s. 15. Application of Rev. Stat., c. 190 and rules.

Where submission provides for appeal.

16.—(1) Where it is agreed by the terms of the submission that there may be an appeal from the award an appeal shall lie to a judge and to the Court of Appeal.

Procedure by party taking up award.

(2) Where by the agreement of the parties or by the provisions of any statute there is an appeal from an award the party taking up the award shall file the same with the registrar of the court and shall serve a copy of the award and a notice of the filing thereof upon the opposite party.

Notice of appeal.

(3) Notice of appeal may be served within fourteen days returnable within thirty days after service of the copy of the award and notice of filing.

Taking evidence in writing.

(4) In all cases in which there is a right of appeal the evidence of the witnesses shall be taken down in longhand and be signed by the witnesses, or be taken in shorthand.

Evidence to be transcribed only on appeal.

(5) It shall not be necessary that evidence taken in shorthand be transcribed unless an appeal is taken.

Exhibits, transmission to registrar.

(6) Upon the request of the party appealing the exhibits shall be transmitted by the arbitrator to the office of the registrar for the purpose of the appeal.

Oath of stenographer.

(7) A stenographer employed to take evidence in shorthand shall be sworn to faithfully take down and transcribe the evidence and shall certify to the accuracy of all copies supplied.

Statement of proceeding on view or special knowledge.

(8) Where the arbitrators proceed wholly or partly on a view or any knowledge or skill possessed by themselves or any of them they shall also put in writing a statement thereof sufficiently full to enable a judgment to be formed of the weight which should be attached thereto.

Requiring further report from arbitrator.

(9) The court may require explanations or reasons from the arbitrator and may remit the matter or any part thereof to him for further consideration.

Powers of court as to extension of time.

(10) The court may extend the time limited by this section either before or after its expiry or may dispense with compliance with the requirements of this section. R.S.O. 1937, c. 109, s. 16.

Interpretation.

17. In sections 18 to 24,

(a) “arbitrator” and “arbitrators” include an umpire and a referee in the nature of an arbitrator;

- (b) "award" includes umpirage and a certificate in the nature of an award. R.S.O. 1937, c. 109, s. 17.

18. The parties to a submission may agree, by writing signed by them or by making such agreement a part of the submission, to pay to the arbitrator or to the arbitrators, if more than one, such fees for each day's attendance, or such gross sum for taking upon themselves the burden of the reference and making the award, as the parties see fit, and no arbitrator shall take or receive from either party to any submission any greater fee than that agreed upon, or in default of agreement than that provided by Schedule B, and the receipt of any greater fee may be regarded as misconduct justifying the setting aside of the award. R.S.O. 1937, c. 109, s. 18.

Agreement as to fees to be paid to arbitrators.

19. No greater fees shall be taxed to a person called as a witness before an arbitrator than would be taxed to him in an action in the court. R.S.O. 1937, c. 109, s. 19.

Fees to witnesses.

20. Where at a meeting of arbitrators of which due notice has been given no proceedings are taken in consequence of the absence of any party, or of a postponement at the request of any party, the arbitrators shall make up an account of the costs of the meeting, including the proper charges for their own attendance and that of any witnesses and of the counsel or solicitor of the party present, and not desiring the postponement, and unless under the special circumstances of the case they think that it would be unjust so to do, they shall charge the amount thereof, or of the disbursements, against the party in default or at whose request the postponement is made, and the last mentioned party shall pay the same to the other party, whatever may be the event of the reference, and the arbitrators shall, in the award, make any direction necessary for that purpose, and the amount so charged may be set off against, and deducted from, any amount awarded in his favour. R.S.O. 1937, c. 109, s. 20.

Costs of meeting where no proceedings.

21.—(1) Any party to an arbitration shall be entitled to have the costs thereof, including the fees of the arbitrators, or such fees alone, taxed by one of the taxing officers of the court at Toronto upon an appointment which may be given by the taxing officer for that purpose on the filing of an affidavit setting forth the facts.

Taxation at instance of parties.

(2) A taxation of the fees of the arbitrators may be had upon an appointment given at the instance of the arbitrators or any of them upon a like affidavit. R.S.O. 1937, c. 109, s. 21.

At instance of arbitrators.

Discretion of
taxing
officer.

22.—(1) The taxing officer shall in no case, except as provided in section 18, tax higher fees than are mentioned in Schedule B to the arbitrators but, upon reasonable grounds, he may reduce the fees to any amount below the maximum mentioned in the Schedule, but not below the minimum, having always regard to the length of the arbitration, the value of the matter in dispute, and the difficulty of the questions to be decided; the fees to be allowed to solicitors and counsel shall be as nearly as may be similar to the fees allowed upon a reference in the court or the county court, the scale to be determined by the taxing officer having regard to the value of the matter in dispute, but he shall not tax more than one counsel fee to either party.

Costs of
award.

(2) The taxing officer may tax a reasonable sum for preparing the award.

Revision of
taxation.

(3) An appeal may be had from such taxation in the same manner as from a taxing officer's certificate of taxation in an action.

Power to
reduce fees.

(4) The taxing officer and the judge upon appeal from taxation shall have the power to reduce fees payable to the arbitrator and to counsel and solicitors where the arbitration has been unduly prolonged. R.S.O. 1937, c. 109, s. 22.

Penalty for
arbitrator
attempting
to exact
excessive
fees.

23. An arbitrator who, after having entered upon the reference, refuses or delays after the expiration of one month from the publication of the award to deliver the same until a larger sum is paid to him for his fees than is by this Act permitted, or who receives for his award or for his fees as arbitrator any such larger sum, shall forfeit and pay to the party who has demanded delivery of the award or who has paid to the arbitrator such larger sum in order to obtain, or as a consideration for having obtained it, treble the excess so demanded or received by the arbitrator contrary to this Act, to be recovered by action in a court of competent jurisdiction. R.S.O. 1937, c. 109, s. 23.

Arbitrator
to have
action for
fees.

24. Where an award has been made the arbitrator may maintain an action for his fees after the same have been taxed, and in the absence of an express agreement to the contrary he may maintain such action against all the parties to the reference, jointly or severally. R.S.O. 1937, c. 109, s. 24.

Order to
sheriff to
produce
prisoner as
witness.

25. A judge may order the sheriff, jailer or other officer having the custody of a prisoner to produce him for examination before an arbitrator or an umpire. R.S.O. 1937, c. 109, s. 25.

26. An arbitrator or an umpire may at any stage of the proceedings and shall, if so directed by the court, state in the form of a special case for the opinion of the court any question of law arising in the course of the reference and an arbitrator or umpire appointed under the authority of a statute or by a court or judge shall, when so directed by the court, state the reasons for his decision and his findings of fact and of law. R.S.O. 1937, c. 109, s. 26.

27. An order made under this Act may be made on such terms as to costs, or otherwise, as the authority making the order thinks just. R.S.O. 1937, c. 109, s. 27.

28. An arbitrator or an umpire, where no special reason appears to him to exist for filing an original book, paper or document as an exhibit, as hereinbefore provided, may allow a copy thereof or of such portion thereof as he may deem material to be substituted as an exhibit in the place of the original book, paper or document. R.S.O. 1937, c. 109, s. 28.

29. Upon an appeal from or motion to set aside an award any party may by notice require any other party to produce, and the party so required shall produce upon the hearing of the appeal or motion any original book, paper or document in his possession which has been used as an exhibit or given in evidence upon the reference, and which has not been filed with the depositions. R.S.O. 1937, c. 109, s. 29.

30.—(1) Unless by leave of the court or a judge, an application to set aside an award, otherwise than by way of appeal, shall not be made after six weeks from the publication of the award.

(2) Such leave may be granted before or after the expiration of the six weeks.

(3) In the computation of time for appealing against, or applying to set aside an award, the vacations shall not be reckoned.

(4) When an award is set aside the court or a judge setting aside the same may give directions as to the costs of the reference and award. R.S.O. 1937, c. 109, s. 30.

31. Subject to the approval of the Lieutenant-Governor in Council, rules of court for the better carrying out of the purposes of this Act and regulating the practice thereunder may be made by the Rules Committee. R.S.O. 1937, c. 109, s. 31; 1941, c. 55, s. 3.

Appoint-
ment of
valuator, etc.

32.—(1) The court or a judge shall have power to appoint a valuator, valuer or appraiser, where it is provided by a written agreement that a valuation or appraisal shall be made by a valuator, valuer or appraiser.

Exercise of
power.

(2) The power may be exercised in the like cases and the proceedings shall be the same as provided by section 8, except that the court or a judge shall not have power without the consent of the parties to appoint a valuator, valuer or appraiser in the place of the one who is named in the agreement and who refuses to act, is incapable of acting or dies. R.S.O. 1937, c. 109, s. 32.

SCHEDULE A

(Section 5)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS

1. If no other mode of reference is provided, the reference shall be to a single arbitrator.

2. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

3. If any arbitrator or umpire or third arbitrator refuses to act, or is incapable of acting or dies the party or parties, or the arbitrators by whom he was appointed, may appoint an arbitrator, umpire or third arbitrator, as the case may be, in his stead, and this power may be exercised from time to time as vacancies occur.

4. The submission shall not be revoked by the death of the parties or either of them.

5. The award shall be delivered to any of the parties requiring the same; and the personal representatives of any party deceased may require delivery of the award.

6. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later date to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.

7. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing, stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

8. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.

9. The parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be

examined by the arbitrators or umpire, on oath in relation to the matters in dispute, and shall subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings, documents and things within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

10. The witnesses on the reference shall be examined on oath.

11. The award to be made by the arbitrators or by a majority of them or by the umpire shall be final and binding on all the parties and the persons claiming under them respectively.

12. The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid.

R.S.O. 1937, c. 109, Sched. A.

SCHEDULE B

(Sections 18 and 22)

FEES CHARGEABLE BY ARBITRATORS

1. For every meeting where the reference is not proceeded with, but a postponement is made at the request of any party,

not less than.....	\$ 8.00
nor more than.....	16.00
2. For every day's sittings, to consist of not less than six hours,

not less than.....	20.00
nor more than.....	40.00
3. Where a day's sittings consists of more than six hours,

for each additional hour, not less than.....	4.00
nor more than.....	6.00
4. For every sittings not extended to six hours (fractional parts of hours being excluded) where the reference is actually proceeded with, for each hour occupied,

not less than.....	4.00
nor more than.....	6.00

1949, c. 5, s. 1.

CHAPTER 21

The Architects Act

1. The Ontario Association of Architects, hereinafter called the "Association", is continued as a body corporate. R.S.O. 1937, c. 233, s. 1. The Ontario Association of Architects continued.

2. The objects of the Association shall be to promote and increase the knowledge, skill and proficiency of its members in all things relating to the profession of architecture, and to advance and maintain a high standard in the practice of architecture in Ontario, and to those ends to establish and maintain, or to assist in the establishment and maintenance of classes, schools, exhibitions or lectures in, and to promote public appreciation of architecture and the allied arts and sciences. R.S.O. 1937, c. 233, s. 2. Objects.

3. The Association may acquire by purchase, lease or otherwise and take and possess for its purposes, but for no other purposes, and after acquiring the same, may sell, mortgage, lease or dispose of any real estate. R.S.O. 1937, c. 233, s. 3. Power to hold real estate.

4. The property and assets of the Association and the Architects' Registration Board shall, from and after the 1st day of July, 1935, become the property of the Association and be vested in it, and all liabilities of the Association and Board as of such date shall become liabilities of the Association and shall be paid and satisfied by it. R.S.O. 1937, c. 233, s. 4. Assets and liabilities of Association and Architects' Registration Board consolidated.

5. The head office of the Association shall be at the city of Toronto. R.S.O. 1937, c. 233, s. 5. Head office.

6. All persons whose names were in good standing as of the 30th day of June, 1935, on the Register of the Architects' Registration Board and all persons thereafter admitted to membership in the Association shall be members of the Association and continue as such until such membership lapses or is suspended or cancelled. R.S.O. 1937, c. 233, s. 6, *amended*. Membership.

7. Membership in the Association shall be granted by the Registration Board of the Association on application to it, provided the applicant, Qualifications for membership.

- (a) is of good character;
- (b) is not less than twenty-one years of age;
- (c) has passed the prescribed examination of the Registration Board or is exempted therefrom pursuant to its regulations;
- (d) is domiciled in Ontario;
- (e) is a British subject, or has taken the oath of allegiance and declared his intention of becoming a British subject. R.S.O. 1937, c. 233, s. 7.

Non-resident
architects
desiring to
practise.

8. Membership in the Association or temporary licences to practise in Ontario may be granted, upon such terms and subject to such conditions as the Registration Board may by regulation provide, to any person who is a British subject domiciled outside of Ontario but within the Commonwealth of Nations who is a member of an association or society of architects within such Commonwealth recognized by the Board. R.S.O. 1937, c. 233, s. 8.

Council of
Association.

9.—(1) There shall be a council of the Association hereinafter called the "Council" which shall consist of six members who shall be elected and hold office as hereinbefore provided and where the immediate past president of the Association has not been re-elected to Council, he shall also be a member thereof until he ceases to be the immediate past president, and Council shall have power by by-law to increase the number of its members. R.S.O. 1937, c. 233, s. 9 (1).

Electoral
districts.

(2) At least one member of Council shall be elected from each of five electoral districts to be known as the "Windsor", "Hamilton", "Toronto", "London" and "Ottawa" districts, and the five districts shall be composed as set forth in the Schedule hereto; provided that Council may by by-law alter the composition of any of the electoral districts and in any by-law increasing the number of members of Council may provide for the creation of one or more new electoral districts and for the election of at least one member of Council from each new district. R.S.O. 1937, c. 233, s. 9 (2), *amended*.

Inclusion of
city or town.

(3) The electoral districts shall respectively include any city or separated town situate in any of the counties or districts forming part of such electoral districts. R.S.O. 1937, c. 233, s. 9 (3).

Term of
office.

(4) Members of Council shall hold office for three years from the 1st day of January following the date of their election. R.S.O. 1937, c. 233, s. 9 (5), *amended*.

(5) Any member of Council may resign by letter addressed to the president of the Association, and every vacancy caused by the death, resignation or incapacity of any member shall be filled by a member of the Association appointed by a majority vote of the members of Council still in office, provided a quorum remains in office, otherwise an election shall be held to fill the vacancies, and a member of Council appointed or elected to fill a vacancy arising as aforesaid, shall hold office only until the expiration of the term of the member so dead, resigned or incapacitated, and he shall be from the electoral district of the member whose place he is elected or appointed to fill. Filling vacancies.

(6) A retiring member of Council shall not be eligible for re-election for the year immediately following his retirement, except he be the president or vice-president at the date of his retirement. R.S.O. 1937, c. 233, s. 9 (6, 7). Re-election.

10.—(1) There shall be a Registration Board of the Association, hereinafter called the "Board", and the purpose of such Board shall be to continue and carry on the functions of the Architects' Registration Board established under *The Architects' Act, 1931*, except as herein varied, and the Board shall be composed as follows: Registration Board.
1931, c. 43.

- (a) One member of the Association to be appointed by the University of Toronto and one member of the Association by each other university, college, or body in Ontario by law authorized to grant degrees in architecture and which establishes and maintains to the satisfaction of the Board a faculty, school or department of architecture in connection therewith, each member appointed under this clause to hold office for a period of three years from the 1st day of January following his appointment. University appointees.
- (b) One member of the Association to be appointed by the Lieutenant-Governor in Council, to hold office for a period of three years from the 1st day of January following his appointment. Government appointee.
- (c) Three members of the Association for the first appointee under clause *a* and one additional member of the Association for each additional appointee under clause *a*, these members to be elected in the manner hereinafter provided, and each to hold office for three years from the 1st day of January following his election. R.S.O. 1937, c. 233, s. 10 (1), *amended*. Elected members.

Eligibility
for re-
appoint-
ment.

(2) Any member of the Board not otherwise disqualified shall be eligible for re-appointment or re-election at the expiration of his term, but a member of Council elected to the Board shall resign his seat on Council before taking his seat on the Board, and a member of the Board, while in office, shall not be eligible for election to Council.

Filling
vacancies.

(3) Any member of the Board may resign by letter addressed to the chairman of the Board, and every vacancy on the Board caused by the death, resignation or incapacity of any member, if such member has been appointed under clause *a* of subsection 1, shall be filled by the university, college or body which appointed him, and if such member has been appointed under clause *b* of subsection 1 by the Lieutenant-Governor in Council, and if such member has been elected under clause *c* of subsection 1 then by a majority vote of the members of the Board still in office, provided a quorum is still in office, otherwise an election shall be held to fill the vacancy, and members of the Board appointed or elected to fill vacancies arising as aforesaid, shall hold office only until the expiration of the term of the member so dead, resigned or incapacitated. R.S.O. 1937, c. 233, s. 10 (2, 3).

Right to
vote.

11. All members of the Association shall be entitled to vote at elections for Council and for the elective members of the Board. R.S.O. 1937, c. 233, s. 11.

Regulations.

12.—(1) The Board may make regulations,

- (a) for the admission of members of the Association and the annual renewal of membership therein;
- (b) prescribing the qualifications of persons to be admitted and the proofs to be furnished as to education, good character and experience;
- (c) prescribing examinations for admission, and the method of conducting them;
- (d) for keeping a register of members of the Association and for issuing certificates of membership under the seal of the Association and calling in such certificates where membership lapses or is cancelled or suspended;
- (e) prescribing the fees to be paid on admission of members to the Association and by associates and student associates, on examinations and on annual renewal of membership in the Association and as annual fees by associates and student associates;

- (f) providing for the discipline and control of members of the Association including provision for the signing or sealing of drawings and specifications prepared by members of the Association;
- (g) providing for the cancellation of membership for non-payment of fees, and for the cancellation of membership where a member changes his domicile to some place outside the Commonwealth of Nations;
- (h) providing for the election of members of Council and of the elective members of the Board, and for the holding of meetings of the Board and for fixing the quorum of the Board;
- (i) for the election of a chairman and vice-chairman and the appointment of a secretary and such other officers of the Board as it may desire and for prescribing their duties, and subject to the provisions hereinafter contained, for fixing the remuneration to be paid to them;
- (j) for granting temporary licences to practise architecture pursuant to section 8 and fixing the fees to be paid thereon;
- (k) generally for the better carrying out of the powers vested in the Board.

(2) A copy of such regulations shall be furnished to every member of the Association. Publication of regulations.

(3) Subject to the approval of the Lieutenant-Governor in Council, the Board may make regulations, Disciplinary regulations.

- (a) providing for the investigation of any complaint that a member of the Association has been guilty of misconduct or incompetence, so as to render it desirable in the public interest that his membership be suspended or cancelled;
- (b) providing for the cancellation or suspension of the membership of any person found by the Board to be guilty of misconduct or incompetence and for the publication in the public press of notice of such cancellation or suspension and the reason therefor;
- (c) providing for the terms and conditions on which a member whose membership has been cancelled

may in a proper case be restored to membership.
R.S.O. 1937, c. 233, s. 12 (1-3).

Regulations
to be fur-
nished to
members.

(4) A copy of any regulations made under subsection 3 shall be furnished to every member of the Association. 1946, s. 89, s. 7.

By-laws.

13. The Council may pass by-laws,

- (a) for the control and management of the real and personal property of the Association;
- (b) instituting and furnishing means and facilities for the promotion of knowledge, proficiency and a high standard of ethics in all things relating to the practice of architecture;
- (c) providing for scholarships, lectures and exhibitions;
- (d) for the holding of meetings of the Association and the Council and fixing the quorum thereat;
- (e) for the election of a president, vice-president and treasurer of the Association and the appointment of a secretary and such other officers of the Association as Council may desire and for prescribing their duties, and subject to the provisions hereinafter contained for fixing the remuneration to be paid to them;
- (f) for the election of associates, student associates, and honorary members;
- (g) appointing representatives to other architectural associations or bodies and maintaining connection with the Royal Architectural Institute of Canada;
- (h) generally for carrying out the objects of the Association in all matters other than those referred to in section 12, all of which are reserved for regulation by the Board. R.S.O. 1937, c. 233, s. 13.

Application
of funds of
the Associa-
tion.

14. The Council shall provide from the funds of the Association all moneys required by the Board to enable it to function in accordance with the powers vested in it, and any funds of the Association may be applied in carrying out this Act and the regulations or by-laws made under it and in furthering the objects of the Association and paying the costs and expenses incurred for or incident to the enactment of this legislation. R.S.O. 1937, c. 233, s. 14.

15. It shall be the duty of each member of Council to bring before it all complaints of misconduct or incompetence on the part of any member of the Association which may be brought to his attention and it shall be the duty of the Council to bring before the Board all such cases which in its opinion should be dealt with by the Board, but nothing herein contained shall prevent anyone from himself bringing before the Board any complaints of misconduct or incompetence on the part of any member of the Association. R.S.O. 1937, c. 233, s. 15.

Duty of Council and members in respect of complaints.

16. There shall be paid to the members of the Council and the Board such fees for attendance and such reasonable travelling expenses as may be fixed, in the case of the Board by its regulations, and in the case of the Council, by by-law, such fees exclusive of travelling expenses, not to exceed \$15 per meeting for the chairman of the Board and \$15 per meeting for the president of the Association, and \$10 per meeting for any other member of the Board or the Council; provided, however, that where the secretary of the Board or the Council is also a member of the Board or the Council, he may be paid such salary as the body appointing him may decide upon, in addition to or by way of substitution for his fee as a member of such body. R.S.O. 1937, c. 233, s. 16.

Fees.

17. Subject to the approval of the Council, members may form themselves into groups for promoting the objects of the Association, and such groups shall be known as Chapters and, subject to the approval of Council, each Chapter shall have power to make by-laws for the admission of members and associates thereof, for the election of officers, the holding of meetings and for otherwise conducting its affairs. R.S.O. 1937, c. 233, s. 17.

Chapters.

18.—(1) Every person who, not being a member of the Association, or who, having been a member, has had his membership cancelled or is under suspension, or who not being licensed under section 8, applies to himself the term "architect" alone or in combination with any other term, or who holds himself out as an architect, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 for a first offence, and upon conviction of a subsequent offence, a penalty of not less than \$300 and not more than \$500 or imprisonment for a period not exceeding three months, or both. R.S.O. 1937, c. 233, ss. 18 (1), 23.

Prohibition against use of word "architect," etc.

(2) Without restricting the generality of the foregoing, any person who prepares or offers to prepare for a fee, commission or other remuneration any sketch, drawing or speci-

Holding out as architect defined.

cation for any proposed building structure or for any structural alteration of or addition to an existing building structure, when such proposed work is to cost more than \$5,000, shall be deemed to hold himself out as an architect.

Proviso.

(3) Nothing in this Act shall prevent or be deemed to prevent,

Rev. Stat.,
c. 292.

- (a) any person from performing his duties in His Majesty's naval, military or aerial service;
- (b) any member or licensee of the Association of Professional Engineers of the Province of Ontario under *The Professional Engineers Act* or any employee or person working under the responsibility of such member or licensee, from performing architectural services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an engineer;
- (c) any person from preparing a sketch, drawing or specification for any structure in, upon or pertaining to a mining property, or any alteration of or addition to an existing structure in, upon or pertaining to a mining property;
- (d) a *bona fide* member of an architect's staff from preparing a sketch, drawing or specification in the course of his employment under the supervision of the architect;
- (e) a *bona fide* building contractor or a *bona fide* member of his staff domiciled in Ontario from preparing a sketch, drawing or specification for his own use as a building contractor in the construction or alteration by himself, or tradesmen employed by him, of any building structure, whether the same be proceeded with or not, and obtaining remuneration therefor;
- (f) any person from preparing any sketch, drawing or specification for interior decorations or the installation in the interior of a structure, of fixtures, non-bearing partitions or equipment where the structural alterations involved do not raise considerations of strength or safety;
- (g) any person from using the term "Landscape Architect";

- (h) any person in the course of his employment under the supervision of or in conjunction with an architect from preparing a sketch, drawing or specification for work to be undertaken by his employer;
- (i) any person, firm or corporation engaged in the business of selling pre-fabricated building structures from furnishing such drawings, diagrams and directions as are required for the assembling and erection of such structures. 1938, c. 47, s. 2.

(4) Associates, student associates and honorary members shall not be deemed to be members of the Association within the meaning of this section unless and until admitted to membership pursuant to section 6, 7 or 8, provided that an honorary member or associate who has at some time been a member of the Association may continue to apply to himself the term "architect", but may not practise architecture. R.S.O. 1937, c. 233, s. 18 (3).

Students,
honorary
members,
etc.

19. In the investigation of any complaint against a member of the Association, the Board shall have all the powers which may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1937, c. 233, s. 19.

Board has
power of
commission
under Rev.
Stat., c. 308.

20.—(1) No action shall be brought against the Board or the Council or any member or officer thereof for anything done under this Act or under any by-law or regulation passed in accordance therewith, but anyone whose membership has been suspended or cancelled may within fifteen days after the date of the order of suspension or cancellation appeal to the Court of Appeal from such order, and the practice and procedure in such appeal shall be the same as upon an appeal from the judgment of a judge of the Supreme Court presiding at a trial, and the Court of Appeal shall have power to confirm, vary, vacate or set aside such order or to make such other order as it may deem just, and to make an order for payment of the costs of the appeal, and there shall be no further or other appeal. 1938, c. 47, s. 3.

No action
to lie against
Board or
Council.

Right of
appeal.

(2) Pending an appeal, the person whose membership is suspended or cancelled, may continue to practise but unless the order of suspension or cancellation be set aside, he shall not practise after the appeal has been disposed of, except that in the case of suspension, he may practise upon and after the expiry of the period of suspension. R.S.O. 1937, c. 233, s. 20 (2).

Practise
pending
appeal.

21. Every architect who wilfully makes any false certificate in respect to any work done or in respect to the cost, value or

False
certificates.

condition of any work or building shall be guilty of an offence and, in addition to being liable in damages for any injury or loss thereby suffered, shall on summary conviction be liable to a penalty of not more than \$100. R.S.O. 1937, c. 233, ss. 21, 23.

Witness
fees.

22. Every architect summoned to attend any civil or criminal court for the purpose of giving evidence in his professional capacity, for each day he so attends, shall be entitled to \$5 in addition to his travelling expenses, to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such court. R.S.O. 1937, c. 233, s. 22.

Recovery
of fees.

23. All fees fixed by the regulations of the Board shall be deemed to be a debt due to the Association and shall be recoverable with the costs of the suit in the name of the Association in the division court of the division in which the member liable resides or practises as an architect. R.S.O. 1937, c. 233, s. 24.

SCHEDULE

(Section 9 (2))

ELECTORAL DISTRICTS

Windsor

Counties of Essex, Kent and Lambton.

Hamilton

Counties of Wentworth, Lincoln, Welland, Simcoe, Brant, Waterloo, Wellington, Grey, Haldimand and Norfolk.

Toronto

Counties of York, Ontario, Peel, Halton, Durham, Northumberland, Hastings, Lennox and Addington, Dufferin, Peterborough, Haliburton, Victoria, Prince Edward, and the Districts of Haliburton, Parry Sound, Muskoka, Algoma, Manitoulin, Kenora, Rainy River and Thunder Bay, and all places outside of Ontario.

London

Counties of Middlesex, Huron, Bruce, Oxford, Elgin and Perth.

Ottawa

Counties of Frontenac, Carleton, Renfrew, Lanark, Grenville, Dundas, Stormont, Glengarry, Prescott and Russell, and Leeds, and the Districts of Nipissing, Sudbury, Temiskaming and Cochrane.

R.S.O. 1937, c. 233, Sched.

CHAPTER 22

The Archives Act

1. The Department of Public Records and Archives, hereinafter called the "Department", is continued. R.S.O. 1937, c. 90, s. 1, *amended*. Department.

2.—(1) There shall be an officer in charge of the Department to be known as the Archivist of Ontario, hereinafter referred to as "the Archivist", who shall be appointed by the Lieutenant-Governor in Council and who shall hold office during pleasure and the said officer shall be charged with the administration of this Act under the direction of the member of the Executive Council to whom the charge of the Department may be from time to time assigned. Provincial
Archivist,
appoint-
ment of.

(2) The Archivist shall have the rank of a deputy head of a department and shall in relation to the Department possess all the powers and perform the duties of a deputy head of a department. R.S.O. 1937, c. 90, s. 2. Powers and
duties of
Archivist.

3. Subject to the regulations, all original documents, parchments, manuscripts, papers, records and other matters in the executive and administrative departments of the Government or of the Assembly, or of any commission, office or branch of the public service shall be delivered to the Department for safe keeping and custody within twenty years from the date on which such matters cease to be in current use. R.S.O. 1937, c. 90, s. 3. Custody of
original
documents.

4. The Archivist is authorized and directed to receive and grant discharges for all such matters as shall be transferred to the Department under the provisions of this Act and the Department shall thereafter be responsible for the safe keeping of the matters so transferred. R.S.O. 1937, c. 90, s. 4. Responsibil-
ity of
Department.

5. The objects of the Department shall be, Objects of
Department.

- (a) the classification, safe keeping, indexing and cataloguing of all matters transferred to the Department under section 3;

- (b) the discovery, collection and preservation of material having any bearing upon the history of Ontario wherever obtainable;
- (c) the copying and printing of important public documents relating to the legislative or general history of Ontario;
- (d) the collecting of all documents having in any sense a bearing upon the political or social history of Ontario and upon its agricultural, industrial, commercial and financial development;
- (e) the collecting of municipal, school and church records;
- (f) the collection and preservation of pamphlets, maps, charts, manuscripts, papers, regimental muster rolls and other matters of general or local interest historically in Ontario;
- (g) the collection and preservation of information respecting the early settlers of Ontario including pioneer experience, customs, mode of living, prices, wages, boundaries, areas cultivated, home and social life;
- (h) the collection and preservation of the correspondence of settlers, documents in private hands relating to public and social affairs and reports of local events of historic interest in domestic and public life;
- (i) the conducting of researches with a view to preserving the memory of pioneer settlers in Ontario and of their early exploits and the part taken by them in opening up and developing the Province. R.S.O. 1937, c. 90, s. 5.

Preservation
of official
documents.

6. Subject to the regulations, no official document, paper, pamphlet or report in the possession of any department or branch of the public service or of the Assembly shall be destroyed or permanently removed without the knowledge and concurrence of the Archivist. R.S.O. 1937, c. 90, s. 6.

Certified
copies.

7. A copy of any original document in the custody of the Archivist, certified under his hand and seal to be a true copy, shall be *prima facie* evidence of the authenticity and correctness of such document. R.S.O. 1937, c. 90, s. 7.

Regulations.

8. The Lieutenant-Governor in Council may make regulations,

- (a) respecting the administration of the Department of Archives and the duties of the Archivist and the officers, clerks and servants employed in the Department;
- (b) prescribing the matters which shall be transferred to the Department under this Act and extending or reducing the period which shall elapse before any such matters are transferred to the Department;
- (c) for the classification of archives and other matters in the Department and the preparation of proper calendars, catalogues and indexes for the purpose of making such archives and other matters accessible for purposes of official, scientific and historical research;
- (d) directing the manner in which documents, papers, pamphlets or reports in the office of any member of the Executive Council or in any department or branch of the public service or the Assembly shall be disposed of from time to time and the class of documents, papers, pamphlets or reports which shall be deemed to be public archives. R.S.O. 1937, c. 90, s. 8.

9. Nothing in this Act shall be taken or deemed to authorize ^{Effect of} the destruction or other disposition of any official document, ^{this Act.} paper, map, plan, report, memorandum or other matter in contravention of any order of the Assembly or of any express provision in any general or special Act of the Legislature. R.S.O. 1937, c. 90, s. 9.

CHAPTER 23

The Artificial Insemination Act

1. In this Act,Interpre-
tation.

- (a) "artificial insemination" means the depositing of semen in the vagina of a female domestic animal by a means other than the natural method;
- (b) "artificial insemination centre" means an establishment where semen is collected for purposes of artificial insemination;
- (c) "Board" means The Artificial Insemination Advisory Board;
- (d) "Commissioner" means Live Stock Commissioner;
- (e) "licence" means a licence under this Act;
- (f) "Minister" means Minister of Agriculture;
- (g) "technician" means a person who engages in the process of artificial insemination or the collection of semen for purposes of artificial insemination. 1947, c. 2, s. 1.

2. The Commissioner shall be responsible to the Minister for the administration and enforcement of this Act. 1947, c. 2, s. 2.

3.—(1) There shall be a board to be known as The Artificial Insemination Advisory Board which shall act in an advisory capacity to the Minister and the Commissioner.

(2) The Board shall consist of one or more persons who shall be appointed by and hold office during the pleasure of the Lieutenant-Governor in Council.

(3) The Lieutenant-Governor in Council may appoint one of the members of the Board to act as chairman.

(4) The members of the Board shall receive such allowances and expenses as the Lieutenant-Governor in Council may determine. 1947, c. 2, s. 3.

Regulations. 4. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make regulations,

- (a) prescribing the powers and duties of the Board;
- (b) providing for the issue of licences for the operation of artificial insemination centres and to technicians and for the renewal, refusal, suspension and revocation thereof;
- (c) prescribing the form of licences and the fees payable therefor;
- (d) prescribing requirements and minimum standards for artificial insemination centres;
- (e) prescribing the qualifications of technicians;
- (f) providing for grants for artificial insemination centres;
- (g) providing for the keeping of records and the making of returns or the furnishing of information by artificial insemination centres and technicians;
- (h) exempting any person from the provisions of this Act or these regulations or any portion thereof;
- (i) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1947, c. 2, s. 4.

Penalties.

5. Every person who violates any of the provisions of this Act or the regulations made thereunder shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$50 for a first offence and to a penalty of not less than \$50 and not more than \$200 for a subsequent offence. 1947, c. 2, s. 5.

CHAPTER 24

The Assessment Act

1. In this Act,

- (a) “collector” means a collector appointed under *The Municipal Act* and where no such appointment is made, means the treasurer; Interpre-
tation.
Rev. Stat.,
c. 243.
- (b) “county” includes district;
- (c) “county council” includes provisional county council;
- (d) “county court” includes district court;
- (e) “county judge” includes district judge;
- (f) “Department” means Department of Municipal Affairs;
- (g) “insurance company” means any company or friendly society or other corporation transacting within Ontario any class of insurance to which *The Insurance Act* applies or may hereafter be made applicable by any general or special Act of the Legislature; Rev. Stat.,
c. 183.
- (h) “judge of the county court” includes a junior judge, a deputy judge and a judge authorized to sit or act for a judge of the county court;
- (i) “land”, “real property” and “real estate” include,
 - (i) land covered with water,
 - (ii) all trees and underwood growing upon land,
 - (iii) all mines, minerals, gas, oil, salt quarries and fossils in and under land,
 - (iv) all buildings, or any part of any building, and all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land,

(v) all structures and fixtures erected or placed upon, in, over, under or affixed to any highway, lane or other public communication or water, but not the rolling stock of any transportation system;

Rev. Stat.,
c. 214.

(j) "loan company" means a loan corporation within the meaning of *The Loan and Trust Corporations Act*;

(k) "Minister" means Minister of Municipal Affairs;

(l) "municipality" means a city, town, village or township, but not a county;

(m) "person" includes any partnership, any body corporate or politic, any bridge authority, any agent or trustee, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

(n) "telephone company" includes any person or association of persons owning, controlling or operating a telephone system or line, but not a municipal corporation;

(o) "tenant" includes occupant and the person in possession other than the owner;

(p) "town" means incorporated town;

(q) "township" includes a union of townships;

(r) "trust company" means a trust company within the meaning of *The Loan and Trust Corporations Act*;

(s) "village" means incorporated village;

Rev. Stat.,
c. 414.

(t) "voters' list" means the alphabetical list referred to in *The Voters' Lists Act*. R.S.O. 1937, c. 272, s. 1; 1940, c. 1, s. 1; 1944, c. 7, s. 1; 1947, c. 3, s. 1; 1949, c. 6, s. 1, *amended*.

All taxes to
be levied
equally upon
all assess-
ments.

2. All municipal, local or direct taxes or rates shall where no other express provision is made be levied upon the whole of the assessment for real property, business or other assessments made under this Act, according to the amounts assessed in respect thereof, and not upon any one or more kinds of property or assessment or in different proportions. R.S.O. 1937, c. 272, s. 2; 1947, c. 3, s. 2.

3. Wherever in *The Municipal Act*, or in any other general or special Act of the Legislature or in any by-law passed under any such Act, the yearly rates or any special rate are expressly or in effect directed or authorized to be levied upon all the rateable property of a municipality for municipal or school purposes, such rates shall be calculated at so much in the dollar upon the total assessment of the municipality and shall be calculated and levied upon the whole of the assessment for real property, business or other assessment made under this Act. R.S.O. 1937, c. 272, s. 3 (1); 1947, c. 3, s. 3 (1).

Rateable property, what to include. Rev. Stat., c. 243.

EXEMPTIONS

4. All real property in Ontario shall be liable to taxation, subject to the following exemptions: R.S.O. 1937, c. 272, s. 4, *part*; 1947, c. 3, s. 4 (1).

Taxable property and exemptions.

1. Lands or property belonging to Canada or any Province.

Lands of Canada, etc.

2. Property held in trust for a tribe or body of Indians, but not if occupied by a person who is not a member of a tribe or body of Indians. 1946, c. 3, s. 1 (1).

Indian lands.

3. Every place of worship and land used in connection therewith and every churchyard, cemetery or burying ground.

Churches, etc.

(a) Where land is acquired for the purpose of a cemetery or burying ground but is not immediately required for such purpose it shall not be entitled to exemption from taxation under this paragraph until it has been enclosed and actually and *bona fide* required, used and occupied for the interment of the dead.

When exemption not to apply.

4. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a university, high school, public or separate school, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by such institution, but not if otherwise occupied.

Public educational institutions.

5. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for philanthropic or religious purposes, the whole profits from which are devoted or applied to such purposes, but such grounds and buildings shall be exempt only while actually used and occupied by such seminary.

Philanthropic or religious seminaries.

6. The buildings and grounds not exceeding in the whole fifty acres of and attached to or otherwise *bona fide* used in

Educational seminaries.

connection with and for the purposes of a seminary of learning maintained for educational purposes, the whole profits from which are devoted or applied to such purposes, but such grounds and buildings shall be exempt only while actually used and occupied by such seminary, and such exemption shall not extend to include any part of the lands of such a seminary which are used for farming or agricultural pursuits and are worked on shares with any other person, or if the annual or other crops, or any part thereof, from such lands are sold. R.S.O. 1937, c. 272, s. 4, pars. 2-5.

Public
hospitals.
Rev. Stat.,
c. 307.

7. Every public hospital receiving aid under *The Public Hospitals Act* with the land attached thereto, but not land of a public hospital when occupied by any person as tenant or lessee.

(a) Land owned and used by such a public hospital for farming purposes shall be deemed attached to the hospital within the meaning of this paragraph, notwithstanding that it is separated therefrom by a highway. 1950, c. 3, s. 1 (1).

Highways,
etc.

8. Every highway, lane or other public communication and every public square. R.S.O. 1937, c. 272, s. 4, par. 7.

Municipal
property.

9. Except as provided in sections 39 and 40, the property belonging to or leased by any county or municipality or vested in or controlled by any public commission wherever situate and whether occupied for the purposes thereof or unoccupied; but not when occupied by a tenant or lessee, nor when used for parking vehicles where a fee is charged for such parking. R.S.O. 1937, c. 272, s. 4, par. 8; 1944, c. 7, s. 2.

Boy Scouts
and Girl
Guides.

10. Property owned, occupied and used solely and only by The Boy Scouts Association or The Canadian Girl Guides Association or by any provincial or local association or other local group in Ontario which is a member of either Association or is otherwise chartered or officially recognized by it. 1950, c. 3, s. 1 (2).

Industrial
farms, etc.

11. Every industrial farm, house of industry, house of refuge, institution for the reformation of offenders or for the care of children, boys' and girls' home, or other similar institution conducted on philanthropic principles and not for the purpose of profit or gain, but only when the land is owned by the institution and occupied and used for the purposes of the institution.

Charitable
institutions.

12. Land of an incorporated charitable institution organized for the relief of the poor, The Canadian Red Cross Society,

St. John's Ambulance Association, or any similar incorporated institution conducted on philanthropic principles and not for the purpose of profit or gain, that is supported, in part at least, by public funds, but only when the land is owned by the institution and occupied and used for the purposes of the institution. 1946, c. 3, s. 1 (3).

13. The property of any children's aid society incorporated under *The Children's Protection Act*, whether held in the name of the society or in the name of a trustee or otherwise, if used exclusively for the purposes of and in connection with the society. R.S.O. 1937, c. 272, s. 4, par. 11. Children's aid societies. Rev. Stat., c. 53.

14. The property of every public library and other public institution, literary or scientific, and of every agricultural or horticultural society or association, to the extent of the actual occupation of such property for the purposes of the institution or society. Scientific or literary institutions, etc.

15. Land acquired by any society or association by reason of its being the site of any battle fought in any war, and maintained, preserved and kept open to the public in order to promote the spirit of patriotism. Battle sites.

16. The land of every company formed for the erection of exhibition buildings to the extent to which the council of the municipality in which such land is situate consents that it shall be exempt. R.S.O. 1937, c. 272, s. 4, pars. 13-15. Exhibition buildings of companies.

17. All fixed machinery used for manufacturing or farming purposes, including the foundations on which the same rests; but not fixed machinery used, intended or required for the production or supply of motive power including boilers and engines, gas, electric and other motors, nor machinery owned, operated or used by a transportation system or by a person having the right, authority or permission to construct, maintain or operate within Ontario in, under, above, on or through any highway, lane or other public communication, public place or public water, any structure or other thing, for the purposes of a bridge or transportation system, or for the purpose of conducting steam, heat, water, gas, oil, electricity or any property, substance or product capable of transportation, transmission or conveyance for the supply of water, light, heat, power, or other service. R.S.O. 1937, c. 272, s. 4, par. 17; 1947, c. 3, s. 4 (3). Machinery.

18. One acre used for forestry purposes or being woodlands for every ten acres of the farm in one municipality under a single ownership but not more than twenty acres in all, and Woodlands.

when the total acreage consists of more than one separately assessed parcel, the assessor shall treat all such parcels as one parcel for the purpose of determining the exemptions under this paragraph and shall apportion the exemption to each parcel in the ratio of the acreage of each parcel used or partly used for forestry purposes or being woodlands or being partly woodlands to the total acreage of all parcels used or partly used for forestry purposes or being woodlands or being partly woodlands. 1947, c. 3, s. 4 (5).

Interpre-
tation.

- (a) "Woodlands" for the purposes of this paragraph means lands having not less than four hundred trees per acre of all sizes, or three hundred trees measuring over two inches in diameter, or two hundred measuring over five inches in diameter, or one hundred measuring over eight inches in diameter (all such measurements to be taken at four and one-half feet from the ground) of one or more of the following kinds: White or Norway pine, white or Norway spruce, hemlock, tamarac, oak, ash, elm, hickory, basswood, tulip (white wood), black cherry, walnut, butternut, chestnut, hard maple, soft maple, cedar, sycamore, beech, black locust, or catalpa, or any other variety which may be designated by Order in Council, and which said lands have been set apart by the owner with the object chiefly, but not necessarily solely, of fostering the growth of the trees thereon and which are not used for grazing livestock. R.S.O. 1937, c. 272, s. 4, par. 22, cl. (a).

Power to
pass by-law
respecting
farm lands
which cease
to be "wood-
lands".

- (b) The council of a town, village or township may by by-law provide that if any part of a farm exempted from taxation ceases to be used for forestry purposes or to be "woodlands" so as not to come within the purview of this paragraph, the assessor shall so report to the clerk who shall forthwith amend the collector's roll by inserting therein the rates or taxes with which such farm would have been chargeable for the preceding three years if such part of the farm had not been so exempt or such portion of such taxes or rates as the by-law may provide or the council may by resolution deem proper, and such rates or taxes or portion thereof shall be collectable in accordance with such amended roll. 1939, c. 3, s. 1.

Buildings of
cold storage
plant.

19. The buildings and other structures erected or placed upon the lands of a corporation which occupies the same for the purposes of carrying on a cold storage plant, if such corporation is or has been aided by way of loan or grant by the

Governments of Canada and Ontario, or either of them; provided that such exemption shall not apply to the land upon which such buildings or structures are erected or placed except to the extent the same may be exempted under the provisions of subsection 1 of 388 of *The Municipal Act*. R.S.O. 1937, ^{Rev. Stat.,} c. 272, s. 4, par. 23. c. 243.

5. The exemptions provided for by section 4 shall be subject to the provisions of *The Local Improvement Act* as to the assessment for local improvements of land that would otherwise be exempt from such assessment under that section. ^{Assessment for local improvements.} R.S.O. 1937, c. 272, s. 6. ^{Rev. Stat.,} c. 215.

BUSINESS ASSESSMENT

6.—(1) Irrespective of any assessment of land under this Act, every person occupying or using land for the purpose of, or in connection with, any business mentioned or described in this section shall be assessed for a sum to be called “business assessment” to be computed by reference to the assessed value of the land so occupied or used by him, as follows: ^{Business assessment.} R.S.O. 1937, c. 272, s. 8 (1), *part*; 1947, c. 3, s. 6.

- (a) Every person carrying on the business of a distiller for a sum equal to one hundred and fifty per cent of the assessed value of the land occupied or used by him for such business exclusive of any portion of such land occupied or used by him for the distilling of alcohol solely and only for industrial purposes and for a sum equal to sixty per cent of the assessed value as to such last-mentioned portion.
- (b) Every person carrying on the business of a brewer for a sum equal to seventy-five per cent of the assessed value of the land occupied or used by him for such business exclusive of any portion of such land occupied and used by him as a malting house and for a sum equal to sixty per cent of the assessed value as to such last-mentioned portion.
- (c) Every person carrying on the business of a wholesale merchant, of an insurance company, a loan company or a trust company, as defined by this Act, or of an express company carrying on business on or in connection with a railway or steamboats or sailing or other vessels or of a land company, or of a loaning land corporation, or of a bank or a banker, or of any other financial business for a sum equal to seventy-five per cent of the assessed value. R.S.O. 1937, c. 272, s. 8 (1), *cls. (a-c)*.

- (d) Every person carrying on the business of selling or distributing goods, wares and merchandise through a chain of more than five retail stores or shops in Ontario, directly or indirectly, owned, controlled or operated by him, for a sum equal to seventy-five per cent of the assessed value of the land occupied or used by him in such business for a distribution premises, storage or warehouse for such goods, wares and merchandise, or for an office used in connection with the said business. R.S.O. 1937, c. 272, s. 8 (1), cl. (d); 1946, c. 3, s. 2 (1).
- (e) Subject to clause *j* every person carrying on the business of a manufacturer for a sum equal to sixty per cent of the assessed value, and a manufacturer shall not be liable to business assessment as a wholesale merchant by reason of his carrying on the business of selling by wholesale the goods of his own manufacture on such land.
- (f) Every person carrying on the business of what is known as a departmental store or of a retail merchant dealing in more than five branches of retail trade or business in the same premises or in separate departments of premises under one roof, or in connected premises, where the assessed value of the premises exceeds \$20,000 or of a retail coal or wood or lumber dealer, lithographer, printer or publisher, except the publisher of a newspaper, for a sum equal to fifty per cent of the assessed value; but in cities having a population of not less than 100,000, retail coal dealers shall be assessed for a sum equal to thirty per cent of the assessed value. R.S.O. 1937, c. 272, s. 8 (1), cls. (e, f).
- (g) Every person practising or carrying on business as a barrister, solicitor, notary public, conveyancer, physician, surgeon, oculist, aurist, medical electrician, dentist, veterinarian, civil, mining, consulting, mechanical or electrical engineer, surveyor, contractor, builder, advertising agent, private detective, employment agent, accountant, assignee, auditor, osteopath, chiropractor, massagist, architect and, subject to subsection 8, every person carrying on a financial or commercial business or any other business as agent, for a sum equal to fifty per cent of the assessed value; but where a person belonging to any class mentioned in this clause occupies or uses land partly for the purposes of his business and partly

as a residence thirty per cent of the assessed value of the land occupied or used by him shall for the purpose of the business assessment be taken to be the full assessed value of the land so occupied or used. R.S.O. 1937, c. 272, s. 8 (1), cl. (g); 1946, c. 3, s. 2 (2).

- (h) Every person carrying on business as the publisher of a newspaper in a city, for a sum equal to thirty-five per cent and in any other municipality for a sum equal to twenty-five per cent of the assessed value.
- (i) Every person carrying on the business of a retail merchant in cities having a population of 50,000 or over for a sum equal to twenty-five per cent of the assessed value; in other cities and towns having a population of 10,000 or over for a sum equal to thirty per cent of the assessed value, and in all other municipalities for a sum equal to thirty-five per cent of the assessed value.
- (j) Every person carrying on the business of a flour miller in a mill producing on an average less than fifty barrels a day, for a sum equal to thirty-five per cent of the assessed value. R.S.O. 1937, c. 272, s. 8 (1), cls. (h-j).
- (k) Every person carrying on the business of a telegraph or telephone company, or of a transportation system, other than a transportation system owned or operated by or for a municipal corporation, or of the transmission of oil or water, or of steam, heat, gas or electricity for the purposes of light, heat or power, for a sum equal to twenty-five per cent of the assessed value of the land (not being a highway, lane or other public communication or public place or water or private right-of-way), occupied or used by such person, exclusive of the value of any machinery, plant or appliances erected or placed upon, in, over, under or affixed to such land. 1946, c. 3, s. 2 (3).
- (l) Every person carrying on the business of a supervised car park for a sum equal to ten per cent of the assessed value.
 - (i) For the purpose of this clause a supervised car park means an area of unimproved land where motor vehicles are parked or stored under supervision and where a charge for such supervision is made. R.S.O. 1937, c. 272, s. 8 (1), cl. (m).

(m) Every person carrying on the business of a photographer or of a theatre, concert hall, or skating rink, or other place of amusement, or of a boarding stable, or a livery, or the letting of vehicles or other property for hire, or of a restaurant, eating house, or other house of public entertainment, or of an hotel or any business not specially mentioned before in this section, for a sum equal to twenty-five per cent of the assessed value. R.S.O. 1937, c. 272, s. 8 (1), cl. (k); 1948, c. 5, s. 1 (1).

Clubs.

(2) Every proprietary or other club in which meals are furnished, whether to members or others, shall be liable to a business assessment for a sum equal to twenty-five per cent of the assessed value of the land occupied or used for the purposes of the club.

Persons carrying on more than one class of business.

(3) Subject to subsections 4 and 5, no person shall be assessed in respect of the same premises under more than one of the clauses of subsection 1, and where any person carries on more than one of the kinds of business mentioned in that subsection on the same premises, he shall be assessed by reference to the assessed value of the whole of the premises under that one of those clauses in which is included the kind of business which is the chief or preponderating business of those so carried on by him in or upon such premises.

Retailing by manufacturer.

(4) Where a manufacturer also carries on the business of a retail merchant he shall be assessed as a retail merchant in respect of any premises or of any portion of any premises which are occupied and used by him solely and only for the purpose of such business.

Garage business and supervised car park. Rev. Stat., c. 243.

(5) Where a person carrying on the business of a public garage as defined by paragraph 121 of subsection 1 of section 388 of *The Municipal Act*, also carries on the business of a supervised car park, he shall be assessed as a person carrying on the business of a supervised car park in respect of any premises or of any portion of the premises which are occupied and used by him solely and only for the purpose of such business. R.S.O. 1937, c. 272, s. 8 (2-5).

Minimum assessment.

(6) Where the amount of the assessment of any person assessable under this section would under the foregoing provisions be less than \$100, he shall be assessed for the sum of \$100. R.S.O. 1937, c. 272, s. 8 (6); 1944, c. 7, s. 3.

Where land used partly for business and partly for residence.

(7) Where any person mentioned in subsection 1 occupies or uses land partly for the purpose of his business and partly for the purpose of a residence he shall be assessed in respect of the part occupied for the purpose of his business only;

but this provision shall not apply to persons assessed under clause g of subsection 1.

(8) A financial or commercial business does not include a business carried on by operating steamboats, sailing or other vessels, tow barges or tugs; nor the business of a steam railway. Operation of steamboats, etc. R.S.O. 1937, c. 272, s. 8 (7, 8).

(9) No person occupying or using land as a rooming house, farm, market garden or nursery shall be liable to business assessment in respect of such land. Farmers, etc.

(a) In this subsection, "rooming house" means any house or building or portion thereof, in which the proprietor resides and occupies at least ten per cent of the floor space as his residence, and supplies for hire or gain to other persons, lodging with or without meals in rooms furnished by the proprietor with necessary furnishings, and does not include an hotel or apartment house. R.S.O. 1937, c. 272, s. 8 (9); 1940, c. 1, s. 2; 1948, c. 5, s. 1 (2).

(10) No subordinate lodge of any registered friendly society and no officer thereof shall be liable to any business assessment in respect of any business of such subordinate lodge. Friendly society subordinate lodges. 1949, c. 6, s. 2.

(11) Every person assessed for business assessment shall be liable for the payment of the tax thereon and the tax shall not constitute a charge upon the land occupied or used. Tax not a charge on land.

(12) Wherever in this section general words are used for the purpose of including any business which is not expressly mentioned, such general words shall be construed as including any business not expressly mentioned, whether or not such business is of the same kind as or of a different kind from those expressly mentioned. Effect of general words. R.S.O. 1937, c. 272, s. 8 (11, 12).

TELEGRAPH AND TELEPHONE COMPANIES

7.—(1) Every telephone company carrying on business in a city, town, village or police village, in addition to any other assessment to which it may be liable under this Act, shall be assessed for 60 per cent of the amount of the gross receipts from all telephone and other equipment belonging to the company located within the municipal limits of the city, town, village or police village, for the year ending on the 31st day of December next preceding the assessment; but in cities having a population of not less than 100,000 such company shall be assessed for seventy-five per cent of such gross receipts. Assessment of telephone companies, on gross receipts in cities, towns, villages and police villages.

Assessment
of receipts
from long
distance
business.

(2) To remove doubts it is hereby declared that the receipts of a telephone company from long distance business or calls in a municipality or police village are and always have been liable to assessment under subsection 1 in such municipality or police village.

Assessment
of telephone
companies,
on mileage
in townships.

(3) Every telephone company shall be assessed in every township for one ground circuit (being a single wire for carrying a message), or metallic circuit (being two wires for carrying a message), as the case may be, placed or strung on the poles or other structures or in conduits operated or used by the company, and the poles, structures, or conduits used in connection therewith in the township and in use on the 31st day of December next preceding the assessment at the rate of \$135 per mile and if any line of poles or other structures or conduits carries more than one ground circuit or metallic circuit, at the rate of \$7.50 per mile for each additional ground circuit or metallic circuit, as the case may be, placed or strung on the 31st day of December next preceding the assessment.

Assessment
of circuits
of local
telephone
systems.

(4) Where a telephone company does not operate generally throughout Ontario and is not authorized by statute to carry on business throughout Ontario, the circuits placed or strung on poles or other structures or conduits operated or used by the company and the poles, structures or conduits used in connection therewith within any township shall be assessed at their actual value, but not exceeding in the whole the rates per mile prescribed by this section except that where the first circuit placed or strung on any poles or other structures of the company and included in the computation of the assessor consists of iron wire such value shall not exceed \$50 per mile.

Computa-
tion of
length of
circuits.

(5) In the computation of the length of such telephone circuits in a township the circuits placed or strung within a police village and every circuit placed or strung on poles or other structures or in conduits, and the poles, structures or conduits used in connection therewith, which does not exceed 25 miles in length and which is not used as a connecting circuit between two or more central exchange switchboards, shall not be included. R.S.O. 1937, c. 272, s. 12 (1-5).

Telephone
company
assessable
for land
built on in
townships.

(6) In a township the land of a telephone company on which any building is erected or placed, and the building itself, shall be liable to assessment. 1950, c. 3, s. 2 (1), *part*.

Assessment
of telegraph
companies
on gross
receipts in
cities, towns,
villages and
police
villages.

(7) Every telegraph company carrying on business in a city, town, village or police village, in addition to any other assessment to which it may be liable under this Act, shall be assessed for 50 per cent of the amount of the gross receipts belonging to the company in such city, town, village or police

village from the business of the company for the year ending on the 31st day of December next preceding the assessment.

(8) In every township there shall be assessed against every such telegraph company a sum equal to \$40 for every mile of the length of one wire placed or strung on the poles or other structures or in conduits operated or used by the company in the township and in use on the 31st day of December next preceding the assessment and a sum equal to \$5 per mile for each additional wire so placed or strung on the 31st day of December next preceding the assessment. R.S.O. 1937, c. 272, s. 12 (6, 7). Assessment on mileage in townships.

(9) In a township the land of a telegraph company on which any building is erected or placed, and the building itself, shall be liable to assessment. 1950, c. 3, s. 2 (1), *part.* Telegraph company assessable for land built on in township.

(10) The telephone and telegraph plant, poles and wires of a steam railway company which are used exclusively in the running of trains or for any other purposes of a steam railway and not for commercial purposes shall be exempt from assessment; but each of such wires when used for commercial purposes shall be assessed at \$5 per mile in the manner hereinbefore mentioned. Telegraph and telephone plant of railways.

(11) In the computation of the length of telegraph wires and additional wires for assessment in a township the wires placed or strung within the area of any police village and the wires of all branch and loop lines which do not exceed twenty-five miles in length shall not be included. Wires in police villages and branch and loop lines excluded.

(12) In the measurement of such additional wires, the length of every telegraph wire and every telephone wire forming a ground circuit or pair of telephone wires forming a metallic circuit, as the case may be, placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages shall be computed. R.S.O. 1937, c. 272, s. 12 (8-10). What to be measured as separate wires.

(13) Every company assessed as provided in this section shall be exempt from assessment in any municipality in respect of all machinery, plant and appliances wherever situate, and shall be exempt from assessment in cities, towns, villages and police villages in respect of all structures placed on, over, under or affixed to any highway, lane or other public communication, public place or water. 1950, c. 3, s. 2 (2). Assessment exemptions of companies.

(14) Where the poles, structures, conduits or wires of a telegraph or telephone company are placed on a boundary line Poles and wires on township boundaries.

between two townships or so near thereto that they are in some places on one side and in other places on the other side of the boundary line or are placed on a road which lies between two townships, although it may deviate so as in some places to be wholly or partly within either of them, the company shall be assessed in each township for one-half of the amount assessable against it under subsection 3, 4, 8 or 10 as the case may be, in both the townships taken together. R.S.O. 1937, c. 272, s. 12 (12).

Real
property
assessment.

(15) Notwithstanding subsection 13, the assessment of a telephone company or telegraph company under this section shall be deemed to be real property assessment, and the taxes payable by any such company shall be a lien upon all the lands of the company in the municipality. R.S.O. 1937, c. 272, s. 12 (13); 1947, c. 3, s. 8.

Returns by
telegraph
and
telephone
companies.

8.—(1) Every telegraph and telephone company doing business in Ontario shall on or before the 1st day of March in each year transmit to the Provincial Secretary a statement in writing showing,

- (a) the gross receipts of the company in Ontario and the gross receipts of the company in each city, town, village and police village, from its business for the year ending on the 31st day of December then last past;
- (b) the length in miles of one wire or of a pair of wires placed or strung on all the poles or other structures or in conduits operated or used by the company in each township;
- (c) the number of miles in length of one wire or of one pair of wires, as the case may be, operated or used by the company in each township, including in the measurement the length in each township of every wire or pair of wires, as the case may be, placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages, and

transmit to the assessment commissioner, or if there is no assessment commissioner, to the clerk of every city, town and village and to the clerk of the township in the case of a police village in which the company does business, a statement in writing of the amount of the gross receipts of the company in such city, town, village or police village for the year ending on the 31st day of December then last past. R.S.O. 1937, c. 272, s. 13 (1).

(2) Every such statement shall be signed by or on behalf of the company and shall be verified by an affidavit attached thereto made by an officer of the company having knowledge of the facts. R.S.O. 1937, c. 272, s. 13 (2); 1947, c. 3, s. 9. Verifying statement.

9.—(1) Where in a township the density of population is not less than 150 of population to 500 acres, the council thereof may, subject to the approval of the Department, by by-law define such areas and declare them to be police villages for the purposes of section 7, and each year thereafter so long as the by-law remains in force every telephone and telegraph company carrying on business in the areas shall be assessed therein on a gross receipts basis in the manner provided in section 7, except that in such case the company shall be assessed for 45 per cent of the amount of the gross receipts from all equipment belonging to the company located within the areas. Power of township to assess on basis of gross receipts.

(2) Every by-law passed under subsection 1 shall have attached thereto a map showing clearly the boundaries of the areas. Map of areas to be attached.

(3) A by-law passed under subsection 1 shall come into force and effect on the 1st day of January in the year following the year in which it is approved by the Department. Commencement of by-law.

(4) Upon the passing, amending or repealing of a by-law under subsection 1, the clerk shall forthwith transmit a copy thereof to the Provincial Secretary and to every telephone and telegraph company carrying on business in the areas defined in the by-law. Duty of clerk.

(5) Every telephone and telegraph company doing business in a township in which a by-law under this section is in force shall on or before the 1st day of March in each year transmit to the Provincial Secretary and to the clerk of the township a statement in writing signed by or on behalf of the company and verified in the manner prescribed in subsection 2 of section 8 showing the amount of the gross receipts of the company in the areas defined in the by-law for the year ending on the 31st day of December then last past. 1946, c. 3, s. 3. Return by companies.

EASEMENTS AND LAND USED AS LANES

10.—(1) Where an easement is appurtenant to any land it shall be assessed in connection with and as part of the land at the added value it gives to the land as the dominant tenement, and the assessment of the land which, as the servient tenement, is subject to the easement shall be reduced accordingly. Assessment of easements.

Lanes used
as right-of-
way.

(2) Where land is laid out and used as a lane and is subject to such rights-of-way as prevent any beneficial use of it by the owner it shall not be assessed separately, but its value shall be apportioned among the various parcels to which the right-of-way is appurtenant and shall be included in the assessment of such parcels and in such cases the assessor shall return the land so used as "Lane not assessed".

Sale for
taxes of
dominant
and servient
tenement.

(3) Where a dominant tenement is sold for arrears of taxes the easements appurtenant thereto shall pass to the purchaser and where a servient tenement is sold for arrears of taxes the sale shall not affect any easement to which it is subject.

Restrictive
covenant.

(4) A restrictive covenant running with the land shall be deemed to be an easement within the meaning of this section. R.S.O. 1937, c. 272, s. 14.

Provision
as to
easements
attaching
to dominant
tenement.

11.—(1) Where land sold for arrears of taxes was a dominant tenement at the time of sale and was so sold after the 3rd day of April, 1930, the easements appurtenant thereto shall be deemed to have passed to the purchaser.

Provision
as to
easements
affecting
servient
tenement.

(2) Where land sold for arrears of taxes was a servient tenement at the time of sale and was so sold after the 3rd day of April, 1930, the easements to which the land was subject shall not be affected by the sale.

Restrictive
covenant.

(3) For the purposes of this section, a restrictive covenant running with the land shall be deemed to be an easement.

Savings as
to rights of
Crown.

(4) Nothing in this section shall in any way affect or defeat the Crown in respect to its interest in any land which, or any interest in which, has been sold for taxes, or against which, or any interest in which, a tax arrears certificate has been registered. R.S.O. 1937, c. 272, s. 15.

ASSESSMENT RETURNS BY TAXPAYERS

Right of
access.

12.—(1) The assessment commissioner, if any, and every assessor of a municipality shall at all reasonable times and upon reasonable request be given free access to all land and to all parts of every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to the land, for the purpose of making a proper assessment thereof or of making a proper business assessment in respect thereof.

Information.

(2) Every adult person present on land when an assessment commissioner or an assessor of the municipality visits the land in the performance of his duties, shall upon request give

to the commissioner or assessor all the information in his knowledge which will assist the commissioner or assessor to make a proper assessment of the land and every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to the land, to make a proper business assessment in respect thereof, and to obtain the information he requires with respect to any person whose name he is required to enter on the assessment roll or in the census register. 1950, c. 3, s. 3, *part*.

13.—(1) Where an assessment commissioner or an assessor has twice visited land for the purpose of making a proper assessment thereof or a proper business assessment in respect thereof or census and has been unable to obtain all information necessary for such purpose, he may deliver or cause to be delivered or mailed to the address of any person, whether resident in the municipality or not, who is or may be assessed in respect of the land, a notice and any of the questionnaires in Form 1. Where assessor unable to obtain information by visit.

(2) Every person to whom such notice and any of such questionnaires are delivered or mailed shall, within ten days after the delivery or mailing, enter thereon in the proper places all the information required thereby that is within his knowledge and sign and deliver or mail the questionnaires to the assessment commissioner or assessor whose name and address appear on the notice. Return of questionnaire.

(3) Except as provided in this or any other section of this Act, no person may be required by an assessment commissioner, assessor or other person to furnish information with respect to the assessment of land, business or persons or with respect to the census. 1950, c. 3, s. 3, *part*. Proviso.

14. The assessor shall not be bound by any statement delivered under section 12 or 13, nor shall the same excuse him from making due inquiry to ascertain its correctness, and, notwithstanding any such statement, the assessor may assess every person for such amount as he believes to be just and correct, and may omit his name or any land which he claims to own or occupy, if the assessor has reason to believe that he is not entitled to be placed on the roll or to be assessed for such land. R.S.O. 1937, c. 272, s. 21 (1); 1947, c. 3, s. 13 (1). Assessor not bound by returns.

15.—(1) Every person who, having been required to furnish information under section 12 or 13, makes default in delivering or furnishing the same and any corporation which makes default in delivering the statement mentioned in section 8 shall be guilty of an offence and liable to a penalty Penalty for not furnishing information.

of not more than \$100 and an additional penalty of \$10 for each day during which default continues. R.S.O. 1937, c. 272, s. 22 (1); 1947, c. 3, s. 14.

Penalty for
false
statement.

(2) Every person who knowingly states anything false in any such statement or in furnishing such information shall be guilty of an offence and liable to a penalty of not more than \$200. R.S.O. 1937, c. 272, s. 22 (2).

Obstruction
of assessor,
etc.

(3) Every person who wilfully obstructs or interferes with an assessment commissioner or assessor in the performance of any of his duties or the exercise of his rights, powers and privileges under this Act shall be guilty of an offence and liable to a penalty of not more than \$200. 1950, c. 3, s. 4.

PREPARATION OF ASSESSMENT ROLLS

Assessment
rolls, form
and
contents.

16.—(1) Every assessor shall prepare an assessment roll in which after diligent inquiry he shall set down according to the best information to be had, the particulars hereinafter mentioned, and in doing so he shall observe the following provisions:

Names of
persons
assessed.

(a) He shall set down the names and surnames, in full, if the same can be ascertained, of all persons, whether they are or are not resident in the municipality, ward, or district for which he has been appointed, who are liable to assessment therein.

Amount
assessed
against
them.

(b) He shall set down in the proper column opposite his name the amounts assessable against each person.

Subdivisions
to be
designated.

(c) Land known to be subdivided shall be designated in the roll by the numbers or other designation of the subdivisions, with reference where necessary to the plan or survey thereof, and land not subdivided into lots shall be designated by its boundaries or other intelligible description. R.S.O. 1937, c. 272, s. 23 (1), cls. (a-c).

Description
of part of
lot.

(d) Where part of a subdivision lot in a municipality is to be assessed, it shall be a sufficient description of it if the name of the owner and the tenant, if any, and the number of feet of its frontage are entered on the assessment roll, and the part assessed shall be deemed to be that part of the lot belonging to the owner whose name is so entered. R.S.O. 1937, c. 272, s. 23 (1), cl. (d); 1950, c. 3, s. 5 (1).

- (e) Each subdivision shall be assessed separately, and every parcel of land (whether a whole subdivision or a portion thereof, or the whole or a portion of any building thereon) in the separate occupation of any person shall be separately assessed; provided that no portion of any building used or intended to be used as a residence shall be separately assessed unless it is a domestic establishment of two or more rooms in which the occupants usually sleep and prepare and serve meals. R.S.O. 1937, c. 272, s. 23 (1), cl. (e); 1939, c. 3, s. 2; 1950, c. 3, s. 5 (2). Each lot to be assessed.
- (f) Where a block of vacant land subdivided into lots is owned by the same person it may be entered on the roll as so many acres of the original block or lot if the numbers and description of the lots into which it is subdivided are also entered on the roll, and the provisions of section 135 shall apply. Description of block of vacant land.
- (g) Subject to subsection 4, where land is assessed against both owner and tenant, both names shall be entered on the roll, bracketed opposite the land, and numbered on the roll. Assessment of both owner and tenant.
- (h) The assessor shall also enter on the roll bracketed with the name of the owner or tenant, the name of the husband or wife as the case may be of such owner or tenant who is entitled to be a municipal elector under the provisions of *The Municipal Act*. Entry of name of wife or husband of person rated. Rev. Stat., c. 243.
- (NOTE.—*In cities and separated towns the particulars required by clause h may be entered in a separate or supplementary assessment roll. See Section 18.*)
- (i) No assessment shall be made against the name of any deceased person, but when the assessor is unable to ascertain the name of the person who should be assessed in lieu of the deceased person, he may enter instead of such name, the words "Representatives of A. B., deceased" (*giving the name of the deceased person*). Deceased persons.
- (j) In assessing land of non-residents to which subsection 6 of section 30 is applicable, the assessor shall enter such land at the end of the assessment roll, separated from the other assessments and placed under the heading "Land of Non-residents", and shall fill in as far as is possible under such heading with regard to such land, the particulars mentioned in columns 1, 2, 7 to 17 inclusive, and 24. Non-residents.

Farmer's
son,
daughter,
etc.

Rev. Stat.,
c. 243.

Entry on
roll by
streets.

Where no
street
names.

Separation
of wards,
etc.

Separation
of school
sections
or areas.

- (k) The assessor shall also enter on the roll as required by section 21 the name of every farmer's son, farmer's daughter and farmer's sister entitled to be entered thereon and shall also enter on the roll bracketed with the name of every farmer's son entered thereon the name of the wife of such farmer's son who is entitled to be a municipal elector under the provisions of *The Municipal Act*. R.S.O. 1937, c. 272, s. 23 (1), cls. (f-k).
- (l) Where in any municipality or portion of a municipality, streets and other highways are commonly known locally by names or numbers they shall be entered and listed in the assessment roll by their names or numbers according to such orderly plan or method that every separately assessed parcel fronting on either side of such street or highway is entered on the roll in proper sequence of street numbers for that side of the street or highway on which it fronts or, if there be no street numbers, in such other suitable sequence for that side of the street or highway on which it fronts as will ensure ready and certain identity for each separately assessed parcel.
- (m) Where in any municipality or portion of a municipality, streets and highways are not commonly known locally by names or numbers, every assessed parcel shall be entered in the assessment roll according to such orderly plan or method and in such suitable sequences as will ensure ready and certain identity for each separately assessed parcel.
- (n) In the preparation of the assessment roll for any municipality, it shall be so arranged that the assessments for each ward and for each polling subdivision into which the municipality is divided shall be kept separate from the assessments for every other ward and polling subdivision.
- (o) In the preparation of the assessment roll for any township divided into public school areas or public school sections, it shall be so arranged that the assessments for each public school area or public school section shall be kept separate from the assessments for every other public school area or public school section; provided that this clause shall not apply in any township divided into wards or polling subdivisions if the boundaries thereof or of a grouping thereof do not coincide with the boundaries of the public school areas or public school sections. 1950, c. 3, s. 5 (3).

(2) The assessor shall set down the particulars in separate columns as follows: Further particulars.

Column 1.—The successive number on the roll.

Column 2.—Name (surname first) and post office address and rural route mail number of taxable persons (including both the owner and tenant in regard to each parcel of land, and persons otherwise taxable) or person entitled to be entered on the roll as a farmer's son.

Column 3.—The year of birth of every person entered on the roll.

Column 4.—Statement whether the person is a British subject or an alien by inserting opposite his name the letters "B.S." or "A." as the case may be.

Column 5.—Statement whether the person is an owner or tenant by inserting opposite his name the letter "O." or "T." as the case may be, and whether the person is qualified to vote at municipal elections as well as at elections for the Assembly, there shall also be entered opposite his name in that column, in capitals, the letters "L.F." meaning thereby "Legislative Franchise", and where the person is a "farmer's son", "farmer's daughter" or "farmer's sister", there shall also be similarly entered the letters "F.S.", "F.D." or "F.Sis.", and in the case of a person who is entitled to be a municipal elector by reason of being the husband or wife of the person rated or entitled to be rated for land as provided by *The Municipal Act* or by Rev. Stat., c. 243. reason of being the wife of a farmer's son, or a farmer's daughter, or farmer's sister, there shall also be entered the letters "M.F.N.C.", meaning that such person is entitled to vote at municipal elections but is not to be counted for the purpose of determining representation in the county council, and all such names shall be numbered on the roll.

(NOTE.—*In cities and separated towns it is not necessary to enter on the roll the letters "M.F.N.C." as above required as the names of such persons may be entered on a separate or supplementary assessment roll. See section 18.*)

Column 6.—Occupation, and in case of women a statement whether the person is a spinster, married woman, or widow, by entering opposite the name of the person the letter "S", "M" or "W", as the case may be, and in the case of a non-resident owner the letters "N.R." (NOTE.—*See as to trustees, etc., s. 30 (11).*)

Column 7.—Number of concession, name of street, or other designation of the local division in which the land lies.

Column 8.—Number of lot, house, etc., in such division. (NOTE.—*See also subsection 3.*)

Column 9.—Number of acres, or other measures showing the extent of the property.

Column 10.—Number of acres cleared, including as cleared all land cleared of trees, arable or otherwise, fit for cultivation, or suitable for pasture, and in cities, towns or villages, whether vacant or built upon.

Column 11.—Number of acres of woodland.

Column 12.—Number of acres of slash land.

Column 13.—Number of acres of swamp, marsh or waste land.

Column 14.—Actual value of the parcel of real property, exclusive of the buildings thereon.

Column 15.—Value of buildings as determined under section 33.

Column 16.—Total actual value of the land.

Column 17.—Total amount of taxable land.

Column 18.—Total value of the land if liable for school rates only.

Column 19.—Total value of land exempt from taxation or liable for local improvements only.

Column 20.—Percentage applied in determining the amount of business assessment under section 6.

Column 21.—Amount of business assessment under section 6.

Column 22.—Total assessment.

Column 23.—Religion.

Column 24.—School sections, and whether a public or separate school supporter, by interting the letters "P" or "S" as the case may be.

Column 25.—Number of persons in the family of each person assessed as a resident, including such person and all other persons residing on the premises.

Column 26.—Number of dogs and number of bitches.

Column 27.—Date of delivery of notice under section 46.

Column 28.—Remarks. R.S.O. 1937, c. 272, s. 23 (3); 1948, c. 5, s. 2; 1949, c. 6, s. 3 (2, 3).

(3) Opposite the name of every person entered on the assessment roll but not assessed for land the assessor shall, in columns 7 and 8 enter, When residence of person assessed to be entered.

(a) in the case of a city, town or village, the residence of such person by its number, if any, and the street or locality in which the same is situate;

(b) in the case of a township, the concession wherein and the lot or part of the lot whereon such person resides,

and in all cases any additional description as to locality or otherwise, which may be reasonably necessary to enable such residence to be ascertained and verified.

(4) In cities and towns the assessor may vary the form of the assessment roll so as to show in columns 1, 2, 3, 5 and 6 the name and other particulars relating to tenants (or if there is no tenant by entering in column 2 the words "vacant lot") and in an additional set of columns numbered 1*a*, 2*a*, 3*a*, 4*a* and 5*a* similar particulars relating to the owner or tenant if the tenant is a lessee holding under a lease extending over twenty-one or more years, and by inserting in column 4*a* the letter "O" or "L", as the case may require, opposite the name of the owner or lessee. R.S.O. 1937, c. 272, s. 23 (4, 5). Special columns in cities and towns.

(5) The form may be varied to facilitate the use of mechanical methods of preparing the roll, and without limiting the generality of the foregoing, Mechanical preparation of assessment roll.

(a) in the case of a British subject the letters "B.S." may be omitted and such omission shall signify that the person is entered on the roll as a British subject;

(b) the letters "M.F." may be entered in place of the letters "M.F.N.C.";

(c) in the case of a public school supporter the letter "P" may be omitted and such omission shall signify that the person is entered on the roll as a public school supporter;

- (d) in the case of an owner the letter "O" may be omitted and such omission shall signify that the person is entered on the roll as an owner. 1941, c. 5, s. 1; 1949, c. 6, s. 3 (4).

Depart-
mental
rules.

17. The Minister may, subject to the approval of the Lieutenant-Governor in Council, by regulation prescribe rules and the class of municipality to which the rules shall apply for the guidance of assessors, and every assessor affected thereby shall conduct himself in accordance therewith. 1946, c. 3, s. 4.

Special
provisions.

18. In cities and separated towns it shall not be necessary to comply with the provisions of clause *h* of subsection 1 of section 16 or of column 5 in subsection 2 of section 16 as to the entry of the letters "M.F.N.C." but the name of every person who is entitled to be a municipal elector by reason of being the wife or husband of the person rated or entitled to be rated for land as above set out may be entered in a separate or supplementary assessment roll by the assessor or assistant assessor appointed and sworn in the same manner as the assessor and all such rolls shall be verified by the assessor or assistant assessor by his affidavit or solemn affirmation according to the following form:

I (*name and residence*).....
make oath and say (*or solemnly declare and affirm*) that:

I have, according to the best of my information and belief, set down in the above separate assessment roll the name of every person who is entitled to be a municipal elector by reason of being the husband or wife of the person rated or entitled to be rated for land as provided by *The Municipal Act*.

R.S.O. 1937, c. 272, s. 24.

Special
provisions as
to certain
townships.

19. The provisions of clause *j* of subsection 1 of section 16 shall not apply to the Townships of York, Scarborough, and Etobicoke, in the County of York, or to the Township of Barton in the County of Wentworth, but the assessor shall assess in the manner provided by subsection 5 of section 30 the unoccupied land of non-residents who have not given notice to the clerk under subsection 6 of section 30. R.S.O. 1937, c. 272, s. 25.

Assessment
of lands
en bloc.

20.—(1) Notwithstanding anything in this Act, in a municipality composed of more than one township, the assessor when he finds it difficult for any reason to comply with the provisions of this Act requiring a separate assessment of each lot or subdivision thereof, may assess the land of any person *en bloc* and for a lump sum or at so much per acre, without placing a separate valuation upon each lot or subdivision thereof, and without distributing the assessment in any way

or entering any other details in the assessment roll or observing any of the formalities in relation to the assessment roll, prescribed by this Act.

(2) Where any part of such land is to the knowledge of the assessor occupied by any person as tenant, he shall enter the name of such person on the roll and make a separate assessment of the land so occupied, but failure to enter such tenant on the roll or to assess the lands occupied by him shall not render invalid any assessment *en bloc* and for a lump sum or at so much per acre as provided by subsection 1. R.S.O. 1937, c. 272, s. 26.

21.—(1) In this section,

Interpre-
tation.

- (a) “farm” means not less than twenty acres of land in the actual occupation of the owner of it;
- (b) “father” includes stepfather;
- (c) “mother” includes stepmother;
- (d) “owner” means a person who is owner in his or her own right, or a person whose wife is owner in her own right, of any estate for life or any greater estate legal or equitable, or of a leasehold estate, the term of which is not less than five years, except where the person is a widow and in that case “owner” means “owner in her own right” of such an estate;
- (e) “son”, “sons”, “farmer’s son” and “farmers’ sons” means son or sons, stepson or stepsons of the full age of twenty-one years not otherwise entitled to be entered on the voters’ list;
- (f) “daughter”, “daughters”, “farmer’s daughter” and “farmers’ daughters” means daughter or daughters, stepdaughter or stepdaughters of the full age of twenty-one years not otherwise entitled to be entered on the voters’ list;
- (g) “farmer’s sister” means a sister of the full age of twenty-one years, not otherwise entitled to be entered on the voters’ list, who is the sister of the owner of a farm who is unmarried or is a widower, and has resided on the farm with such owner for the twelve months next preceding and is residing thereon at the date fixed for beginning to make the assessment roll.

Farmer's
sons and
daughters.

(2) Subject to subsections 3 to 10, where a father or mother is the owner of a farm, his or her sons and daughters who have resided on the farm for the twelve months next preceding and are residing thereon at the date fixed for beginning to make the assessment roll shall have the same right to be entered on the roll as if they were jointly assessed for the farm with the father or mother, but they shall be entered on the roll as farmers' sons, or farmers' daughters, as the case may be.

When son or
daughter
not entitled
to be
entered.

(3) Where the amount at which the farm is assessed is insufficient, if equally divided between a father or mother and son or daughter, and they were jointly assessed for it, to qualify both to vote at a municipal election, the son or daughter shall not be entitled to be entered on the roll in respect of the farm.

When
assessment
insufficient
to qualify
all sons.

(4) If the father is living and there are more sons than one resident as provided in subsection 2, and the farm is not assessed for an amount sufficient, if equally divided between them to qualify the father and all such sons to vote at a municipal election, so many of the sons in the order of their seniority, beginning with the eldest, as the amount at which the farm is assessed, if equally divided between them and the father, would be sufficient to qualify, shall be entitled to be entered on the roll as farmers' sons.

Idem.

(5) If the father is dead and the mother is a widow and the farm is not assessed for an amount sufficient, if equally divided between them to qualify all of them to vote at a municipal election, so many of the sons, in the order mentioned in subsection 4, as the amount at which the farm is assessed, if equally divided between the mother and them, would be sufficient to qualify, shall be entitled to be entered on the roll as farmers' sons.

Right of
daughter to
vote where
no sons.

(6) Where a father or mother has no sons, the daughters, if any, shall for the purposes of subsection 4 or 5 be entitled to be entered on the roll as farmer's daughters in the same manner and to the same extent as the sons, if there had been sons, would have been entitled to be entered on the roll.

Right of
daughter to
vote where
sons also
vote.

(7) Where a father or mother has sons and daughters and the farm is assessed at an amount more than sufficient to entitle the father or mother and all the sons to be entered on the roll, but is not assessed for an amount sufficient to qualify also all such daughters to vote at a municipal election, so many of the daughters in the order mentioned for sons in subsection 4 as the amount at which the farm is assessed if equally divided between the father, mother and the sons and daughters would

be sufficient to qualify, shall be entitled to be entered on the roll as farmers' daughters.

(8) A farmer's sister shall have the same right to be entered on the roll as if she were jointly assessed for the farm with the owner, but she shall not be entered thereon as a farmer's sister unless the amount at which the farm is assessed is sufficient if equally divided between them, and they were jointly assessed for it, to qualify both to vote at a municipal election. Right of farmer's sister to vote.

(9) In case more than one farmer's sister has the right under subsection 8 to be entered on the roll with the owner, and the farm is not assessed for an amount sufficient to qualify all such farmer's sisters to vote at a municipal election, so many of the farmer's sisters in the order mentioned for sons in subsection 4 as the amount at which the farm is assessed if equally divided between the owner and the farmer's sisters would be sufficient to qualify, shall be entitled to be entered on the roll as farmer's sisters. Right of more than one farmer's sister to vote.

(10) Occasional or temporary absence from the farm for a time or times not exceeding in the whole six of the twelve months shall not disentitle a farmer's son, farmer's daughter or farmer's sister to be entered on the roll. R.S.O. 1937, c. 272, s. 27. Occasional absence not to disqualify.

22.—(1) In addition to the particulars required by this Act to be entered upon the assessment roll, every assessor shall enter upon the roll the name of every person who is of the full age of twenty-one years, a British subject, and who has been a resident of Ontario for a period of nine months prior to the date fixed for the assessor to begin to make up his roll, and who is a resident of the municipality and qualified in other respects, as the assessor believes, to vote at elections to the Assembly. Assessor to enter names on roll.

(2) After the name of every person so entered, the assessor shall enter the person's place of residence, and condition (as "married" or "married woman", "widower", "widow", "bachelor" or "spinster", as the case may be) or initials denoting such condition, and the letters "L.F." (Legislative Franchise). Particulars to be entered on list.

(3) It shall be the duty of the assessor to make diligent inquiries when preparing the assessment roll in order to ascertain the persons who are entitled to be entered on the roll under this section. Duty of assessor.

(4) The names of persons and the particulars in relation to such persons required by this section to be entered in the assessment roll, and who are not qualified to vote at municipal elections, may be entered in a separate or supplementary List of names of provincial electors on separate assessment roll.

assessment roll by the assessor or an assistant assessor up-pointed and sworn in the same manner as the assessor and all such rolls shall be verified by the assessor or assistant assessor by his affidavit or solemn affirmation according to the following form:

I (*name and residence*), make oath and say (*or solemnly declare and affirm*), as follows:

I have according to the best of my information and belief set down in the above separate roll the name of every person who is of the full age of twenty-one years, a British subject, and who has been a resident of Ontario for a period of nine months prior to the day of 19.... (the date fixed for the assessor to begin to make up his roll) and who is a resident of the municipality (*or* electoral district) and qualified in other respects, as I believe, to vote at elections to the Assembly, and who is not qualified to vote at municipal elections.

R.S.O. 1937, c. 272, s. 28.

ENTRY OF SCHOOL SUPPORTERS ON ROLL

Assessor to be guided by index book.

Rev. Stat., c. 356.

23. Where the index book required by section 63 of *The Separate Schools Act* is prepared, the assessor shall be guided thereby in ascertaining who have given the notices which are by law necessary in order to entitle supporters of Roman Catholic separate schools to exemption from the public school tax. R.S.O. 1937, c. 272, s. 29.

Evidence on which assessor to enter persons as separate school supporters.

24. The assessor, where the entry in the index book mentioned in section 23 does not show a ratepayer to be a supporter of separate schools, shall accept the statement of the ratepayer, or a statement made on his behalf and by his authority, and not otherwise, that he is a Roman Catholic, as sufficient *prima facie* evidence for placing such person in the proper column of the assessment roll for separate school supporters, or if the assessor knows personally any ratepayer to be a Roman Catholic this shall also be sufficient for placing him in such last-mentioned column. R.S.O. 1937, c. 272, s. 30.

Entry of Roman Catholic separate school supporters.

25. The court of revision shall hear and determine all complaints with regard to persons alleged to be wrongfully placed upon or omitted from the roll as Roman Catholic separate school supporters, and any person so complaining or any ratepayer may give notice in writing to the clerk of the municipality of such complaint, and the provisions of this Act as to giving notice of complaints against the assessment roll and proceedings for the trial thereof shall apply to complaints under this section. R.S.O. 1937, c. 272, s. 31.

Notice to be given of assessment as public or separate school supporter.

26.—(1) In the case of a municipality in which there are supporters of a Roman Catholic separate school therein, or contiguous thereto, there shall be printed in conspicuous characters, or written across or on the assessor's notice to

every ratepayer provided for by section 46 and set out as Form 3, in addition to the proper entry heretofore required to be made in the column respecting the school tax, the following words: "*You are assessed as a Separate School supporter*" or "*You are assessed as a Public School supporter*", as the case may be; or these words may be added to the notice to the ratepayer set forth in the said Form.

(2) Where a ratepayer, who was in the next preceding year assessed as a public school supporter, is being assessed as a separate school supporter or where a ratepayer, who was in the next preceding year assessed as a separate school supporter, is being assessed as a public school supporter, it shall be the duty of the assessor to give, in addition to all other notices, a written or printed notice to the ratepayer that the change is being made. R.S.O. 1937, c. 272, s. 32.

CENSUS

27.—(1) The assessor of every municipality shall take a yearly census of the inhabitants of the municipality according to the following age groups:

Group	Age	Group	Age	Group	Age
1.—3 and under		5.—8 and 9		9.—16 to 19	
2.—4		6.—10 to 13		10.—20 to 59	
3.—5		7.—14		11.—60 to 64	
4.—6 and 7		8.—15		12.—65 to 69	
				13.—70 and over.	

(2) The assessor shall enter the census in a register to be provided for the purpose by the clerk of the municipality, the register being according to the form and giving the particulars approved by the Department.

(3) The register duly completed by the assessor shall be returned to the clerk with the assessment roll or at such other time of the year as the council may by by-law direct. 1949, c. 6, s. 4.

LIST OF LANDS PATENTED, LOCATED, ETC.

28. The county treasurer shall, from the list transmitted to him by the Minister of Lands and Forests under section 27 of *The Public Lands Act*, furnish to the clerk of each municipality in the county a copy of the list, so far as regards lands in such municipality, and such clerk shall furnish the assessors respectively with a statement showing what lands in the list

Notice to be given of change in assessment as public or separate school supporter.

Yearly census of inhabitants.

Register of census.

Return of the census.

County treasurer to furnish copies of lists to clerks of municipalities.

Rev. Stat., c. 309.

are liable to assessment within such assessor's assessment district. R.S.O. 1937, c. 272, s. 34.

(NOTE.—See *The Public Lands Act, Rev. Stat., c. 309, s. 27, requiring Minister of Lands and Forests to send list of lands patented, located, etc., to treasurers of counties and of local municipalities in unorganized territory.*

See The Registry Act, Rev. Stat., c. 336, s. 106 and The Land Titles Act, Rev. Stat., c. 197, s. 55 (2), requiring registrars and masters to furnish lists of transfers of land to municipalities.)

MODE OF ASSESSMENT OF LANDS

Land,
where to be
assessed.

29. Except as otherwise provided, land shall be assessed in the municipality in which it lies, and in the case of a municipality divided into wards, in the ward in which it lies. 1946, c. 3, s. 5.

Owner-
occupied
land.

30.—(1) Land occupied by the owner shall be assessed against him.

Unoccupied
land of
resident.

(2) Unoccupied land the owner of which is resident in the municipality shall be assessed against him.

Land of
resident
occupied by
tenant.

(3) Land owned by a resident in the municipality and occupied by any person other than the owner shall be assessed against the owner and the tenant.

Occupied
land owned
by non-
resident.

(4) Occupied land owned by a person who is not a resident in the municipality shall be assessed against the owner, if known, and against the tenant.

Unoccupied
land of non-
resident in
cities towns
or villages.

(5) In cities, towns and villages unoccupied land owned by non-residents shall be assessed in the same manner as the land of residents, and where the name of the owner cannot be ascertained, the assessor shall insert the word "non-resident" in the column in the assessment roll for the name of the owner opposite the description of the land.

Unoccupied
land of non-
resident in
townships.

(6) In townships, unoccupied land shall be denominated "lands of non-residents" unless the owner thereof resides or has a place of business in the municipality where the land is situate, or gives a notice (Form 2) setting forth his full name, place of residence and post office address, to the clerk of the municipality on or before the 20th day of April in any year, that he owns such land, describing it, and requires his name to be entered in the assessment roll therefor, and the clerk of the municipality shall, on or before the 25th day of April

in each year, make up and deliver to the assessor a list of the persons requiring their names to be entered on the roll and of the lands owned by them.

(7) The clerk of the municipality shall keep in a book a record of such notices, and they shall stand until revoked. Record of non-residents' notices.

(8) Where the name of the owner of unoccupied land has not been entered upon the assessment roll in respect thereof by the assessor, such owner or his agent shall be entitled, Rights of appeal of non-resident, not named in roll.

(a) to apply to the court of revision to have the same so entered whether the notice in subsection 6 has or has not been given, and the court may order the name to be entered notwithstanding that the notice has not been given or has not been given by the time provided in the said subsection;

(b) within the time allowed by law for other applications in that behalf, to apply to the judge to have the name of the owner entered upon the assessment roll and the voters' lists, whether such notice has or has not been given, and the judge may direct that the same be so entered as provided in section 41 of *The Voters' Lists Act*, notwithstanding that such notice has not been given or has not been given by the time provided in subsection 6. Rev. Stat., c. 414.

(9) Where land is owned by more persons than one, and any one of the owners is not resident in the municipality, Joint owners, resident and non-resident.

(a) if the land is occupied by any person other than the owners, it shall be assessed against the tenant and against such of the owners as are known; and

(b) if occupied by any of the owners, or if unoccupied it shall be assessed against all the owners who are known.

(10) Where land is assessed against a tenant under section 4 or 9, the tenant, for the purpose of imposing and collecting taxes upon and from the land, shall be deemed to be the owner. Tenant, when to be deemed owner.

(11) Land held by a trustee, guardian, executor or administrator shall be assessed against him as owner or tenant thereof, as the case may require, in the same manner as if he did not hold the land in a representative capacity; but the fact that he is a trustee, guardian, executor or administrator shall, if Land held by trustees, etc.

known, be stated in column 6 of the roll; provided, however, that such trustee, guardian, executor or administrator shall only be personally liable when and to such extent as he has property as such trustee, guardian, executor or administrator, available for payment of such taxes. R.S.O. 1937, c. 272, s. 36.

Land of
transporta-
tion or
transmission
company.

31. The real estate of any transportation or transmission company shall be considered as land of a resident in the municipality although the company has not an office in the municipality. R.S.O. 1937, c. 272, s. 37.

Assessment
of Crown
lands.

32.—(1) Notwithstanding paragraph 1 of section 4, the tenant of land owned by the Crown where rent or any valuable consideration is paid in respect of such land and the owner of land in which the Crown has an interest and the tenant of such land where rent or any valuable consideration is paid in respect of such land shall be assessed in respect of the land in the same way as if the land was owned or the interest of the Crown was held by any other person.

(a) For the purposes of this subsection,

- (i) "tenant", in addition to its meaning under clause *o* of section 1, also includes any person who uses land belonging to the Crown as or for the purposes of, or in connection with his residence, irrespective of the relationship between him and the Crown with respect to such use,
- (ii) "residence" means a building or part of a building used as a domestic establishment and consisting of two or more rooms in which persons usually sleep and prepare and serve meals,
- (iii) "rent or any valuable consideration" shall be deemed to have been paid, in the case of an employee using land belonging to the Crown as a residence, where there is a reduction in or deduction from the salary, wages, allowances or emoluments of the employee because of such use or where such use is taken into consideration in determining the employee's salary, wages, allowances or emoluments. 1946, c. 3, s. 6, *part*; 1947, c. 3, s. 16 (1); 1950, c. 3, s. 6 (1).

Section 50
not to apply.

(2) The provisions of section 50 shall not apply in respect of land owned by His Majesty in right of Ontario or land

in which His Majesty in right of Ontario has an interest. 1948, c. 5, s. 3.

(3) The tenant of land held in trust for a tribe or body of Indians who is not a member of such tribe or body where rent or any valuable consideration is paid in respect of such land shall be assessed in respect of the land in the same way as if the land was owned or held by any other person. 1946, c. 3, s. 6, *part*. Assessment of Indian lands.

(4) In addition to the liability of every person assessed under subsection 1 or 3 to pay the taxes assessed against him, the interest in such land, if any, of every person other than the Crown and the tribe or body of Indians for which it is held in trust or any member thereof, shall be subject to the lien given by section 98 and shall be liable to be sold or vested in the municipality for arrears of taxes. 1946, c. 3, s. 6, *part*; 1950, c. 3, s. 6 (2). Tenant's interests may be sold.

VALUATION OF LANDS

33.—(1) Subject to the provisions of this section, land shall be assessed at its actual value. R.S.O. 1937, c. 272, s. 39 (1). Assessment of land.

(2) In ascertaining the actual value of land without buildings thereon consideration shall be given to the present use, location, normal rental value, normal sale value and any other circumstance affecting the value. 1946, c. 3, s. 7 (1), *part*; 1950, c. 3, s. 7. Land without buildings.

(3) In assessing land having buildings thereon the value of the land and buildings shall be ascertained by giving consideration to present use, location, cost of replacement, normal rental value, normal sale value, and any other circumstance affecting the value, and the value of the buildings shall be the amount by which the value of the land is thereby increased, and the actual value of the land and the buildings so ascertained shall be set down separately in the columns of the assessment roll, and the assessment shall be the sum of such values. 1946, c. 3, s. 7 (1), *part*. Land with buildings.

(4) The buildings, plant and machinery in, on or under mineral land, and used mainly for obtaining minerals from the ground, or storing the same, and concentrators and sampling plant, and, subject to subsection 7, the minerals in, on or under such land shall not be assessable. R.S.O. 1937, c. 272, s. 39 (4). Certain buildings and minerals not assessable.

Profits
from mines.

(5) The profits from a mine or mineral work shall be assessed by, and the tax leviable thereon shall be paid to, the municipality in which the mine or mineral work is situate, or, in unorganized territory, the school board having jurisdiction over the area in which the mine or mineral work is situate; provided that the assessment on each oil or gas well operated at any time during the year shall be at least \$20. R.S.O. 1937, c. 272, s. 39 (6); 1947, c. 3, s. 17 (1); 1948, c. 5, s. 4.

Business
assessment.

(6) Every person occupying mineral land for the purpose of any business other than mining shall be liable to business assessment as provided by section 6.

Petroleum
mineral
rights.

(7) Where in any deed or conveyance of lands heretofore or hereafter made the petroleum mineral rights in the lands have been or are reserved to the grantor, such mineral rights shall be assessed at their actual value. R.S.O. 1937, c. 272, s. 39 (7, 8).

Tax on mine
etc., to be
approved
by Depart-
ment.

Rev. Stat.,
c. 237.

(8) Notwithstanding anything in this section the tax payable to a municipality upon a mine or mining work liable to taxation under section 4 of *The Mining Tax Act* shall be subject to the approval of the Department and shall not exceed,

- (a) one and one-half per cent of the amount of the annual profits upon which the tax payable under the said section 4 is based, up to and including \$2,333,333.33; and
- (b) two and one-half per cent of the annual profits upon which the tax payable under the said section 4 is based, which are in excess of \$2,333,333.33. 1939 c. 3, s. 3; 1947, c. 3, s. 17 (2).

Distribution
of taxes.

(9) The taxes payable in accordance with subsection 5 or 8 shall be distributed among the bodies that would have received them had such taxes been levied in the usual way and in the same ratio. 1947, c. 3, s. 17 (3).

Minerals
and surface
rights
becoming
vested in
one owner.

(10) Where any estate in mines, minerals or mining rights has heretofore or may hereafter become severed from the estate in the surface rights of the same lands, whether by means of the original patent or lease from the Crown, or by any act of the patentee or lessee, his heirs, executors, administrators, successors or assigns, such estates after being so severed shall thereafter be and remain for all purposes of taxation and assessment separate estates notwithstanding the

circumstances that the titles to such estates may thereafter be or become vested in one owner. R.S.O. 1937, c. 272, s. 39 (10).

(11) Notwithstanding subsection 4, but subject to subsection 8, the assessment of profits from a mine or mineral work or mining work under this section shall be deemed to be real property assessment, and the taxes payable in accordance with subsection 8 upon such assessment shall be a lien upon all the lands in the municipality of the person liable for payment of such taxes. R.S.O. 1937, c. 272, s. 39 (11); 1947, c. 3, s. 17 (4). Mine assessment to be regarded as for real property.

(12) Land which has been planted for forestation or reforestation purposes shall not be assessed at a greater value by reason only of such planting. 1938, c. 37, s. 2 (1). Reforested lands.

34.—(1) The council of a city, town or village may, with the assent of the electors qualified to vote on money by-laws, pass a by-law providing that taxes and rates, except for school purposes, on dwelling-houses assessed for not more than \$4,000 shall be levied and imposed on such percentage of the assessed value as may be thought proper, but not on a less percentage than the following: Provision for partial exemption of dwelling-houses from taxation.

- (a) on dwelling-houses assessed at not more than \$2,000, on not less than fifty per cent of the assessed value;
- (b) on dwelling-houses assessed at not more than \$2,500, on not less than sixty per cent of the assessed value;
- (c) on dwelling-houses assessed at not more than \$3,000, on not less than seventy per cent of the assessed value;
- (d) on dwelling-houses assessed at not more than \$3,500, on not less than eighty per cent of the assessed value;
- (e) on dwelling-houses assessed at not more than \$4,000, on not less than ninety per cent of the assessed value.

(2) The council of a township shall have the same power as is set out in subsection 1 and in addition the by-law may in the case of farms extend and apply to all buildings used for farming purposes. Power of townships.

(3) The council of any local municipality may, without the assent of the electors, pass a by-law exempting from taxation except for local improvements and school purposes for a period not exceeding ten years, dwelling-houses assessed at not more Exemption of dwelling-houses of men on active service overseas.

than \$3,000 owned and occupied by officers or men who were on active service overseas during the late war with the naval or military forces of Great Britain or Great Britain's Allies.

Exemption
from poll
tax.

(4) The council of any local municipality may, without the assent of the electors, pass a by-law exempting such officers and men for a period not exceeding ten years from the payment of any poll tax levied or imposed under section 3 of *The Statute Labour Act*, and the council of a township may, without the assent of the electors, pass a by-law exempting for a period not exceeding ten years such officers and men from the performance of the one day of statute labour mentioned in section 6 of *The Statute Labour Act*.

Interpre-
tation.

(5) For the purposes of this section, "dwelling-houses" does not include an apartment or tenement house or an hotel or a building erected or altered for the purpose of providing two or more separate suites, or sets of rooms for separate occupation by one or more persons. R.S.O. 1937, c. 272, s. 40.

Exemption
of farm
lands from
taxation for
certain ex-
penditures.

35.—(1) In any city, town, village or township where lands held and used as farm lands only and in blocks of not less than five acres by any one person, are not benefited to as great an extent by the expenditure of moneys for and on account of public improvements, of the character hereinafter mentioned, in the municipality as other lands therein generally, the council of the municipality shall annually, at least two months before striking the rate of taxation for the year, pass a by-law declaring what part, if any, of such lands shall be exempt or partly exempt from taxation for the expenditures of the municipality incurred for waterworks, fire protection, garbage collection, sidewalks, pavements or sewers or the lighting, oiling, tarring, treating for dust or watering of the streets, regard being had in determining such exemption to any advantage, direct or indirect, to such lands arising from such expenditures or any of them. 1944, c. 7, s. 4.

Person
claiming
exemption
to notify
council.

(2) Any person claiming such exemption in whole or in part shall notify the council of the municipality thereof within fourteen days after the time fixed by law for the return of the assessment roll, and shall by some intelligible description indicate the land and quantity as nearly as may be in respect of which exemption is claimed.

Appeal to
county
judge
against
provisions
of by-law.

(3) Any person complaining that the by-law does not exempt or sufficiently exempt him or his said farm lands from taxation as aforesaid may within fourteen days after the passing thereof notify the clerk of the municipality of the intention to appeal against the provisions of the by-law or

any of them to the judge of the county court, who shall have full power to alter or vary any or all of the provisions of the by-law and determine the matter of complaint in accordance with the spirit and intent of the provisions of this section.

(4) If the council fails to pass such by-law within one month after the said notice, then any person affected may within fourteen days after the lapse of the said month notify the clerk of the municipality of the intention to appeal to the judge of the county court, who shall have as full power to entertain such appeal as the said judge has on appeal against the provisions of a by-law passed under subsection 1.

Application to judge in case of failure of council to pass by-law.

(5) The provisions relating to appeals from a court of revision to the county judge and to the amendment of the assessment roll thereon shall, so far as applicable, regulate and govern the procedure to be followed upon appeals to the county judge under this section, and the amendment of the by-law thereon.

Procedure upon appeals to judge.

(6) Nothing in subsections 2, 3, 4 and 5 shall be deemed to prevent or affect the right of appeal to the county judge from the decision of a court of revision upon any appeal against an assessment. R.S.O. 1937, c. 272, s. 42 (2-6).

Appeals from court of revision not affected.

36.—(1) Section 35 shall apply to a police village so that farm lands situate therein may be exempted or partly exempted from taxation in the same manner, to the same extent, and for the purposes mentioned in that section.

Exemption of farm lands in police villages.

(2) The trustees or board of trustees of a police village shall have power to and shall pass by-laws as provided for in section 35, and forthwith after passing the same furnish a certified copy thereof to the clerk of the township or townships in which the police village or any part thereof is situate, and all notices to be given under the said section shall be given to the trustees or board of trustees of the police village instead of to the clerk of the municipality.

Exemption by-law to be passed by trustees of police village.

(3) The trustees or board of trustees of a police village shall notify the clerk of the township or townships, in which the police village or any part thereof is situate, of any decision of the judge made under section 35 forthwith after the same is received.

Notice of by-law and of decisions of judge to be given to township clerk.

(4) If a police village is situate in two or more counties, the judge of the county court of the county in which the larger or largest part of the police village is situate shall exercise jurisdiction for the purposes of this section.

Jurisdiction of judge where two counties affected.

Application of by-law by township council in striking rates.

(5) The provisions of every by-law of a police village passed under the authority of this section, and of every decision of the judge with respect to such police village, shall be made applicable by the council of the township or townships in which the police village or any part thereof is situate in striking the rates to be levied in or for the purposes of the police village. R.S.O. 1937, c. 272, s. 43.

Assessment of lands of water, heat, light, power and transportation companies.

37.—(1) The property by subclause v of clause i of section 1 declared to be "land" which is owned by companies or persons supplying water, heat, light and power to municipalities and the inhabitants thereof, and companies and persons operating transportation systems and companies or persons transmitting oil or gas by pipe line, shall, in a municipality divided into wards, be assessed in the ward in which the head office of the company or person is situate, if the head office is situated in the municipality, but if the head office of the company or person is not in the municipality, then the assessment may be in any ward thereof. R.S.O. 1937, c. 272, s. 44 (1); 1944, c. 7, s. 5 (1).

Assessment of works extending into two or more municipalities.

(2) Where the property of any such company or person extends through two or more municipalities, the portion thereof in each municipality shall be separately assessed therein at its value as an integral part of the whole property.

Principle of assessment.

(3) In assessing such property whether situate or not situate upon a highway, street, road, lane or other public place, the same shall when and so long as in actual use be assessed at its actual cash value as the same would be appraised upon a sale to another company or person possessing similar powers, rights and franchises in and from the municipality and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting the value of such property including the non-user of any of the same. R.S.O. 1937, c. 272, s. 44 (2, 3).

Assessment of structures, rails, etc., of transportation system.

(4) Notwithstanding anything in this or any other section of this Act, the structures, substructures, superstructures, rails, ties, poles and wires of such a transportation system shall be liable to assessment and taxation in the same manner and to the same extent as those of a steam railway are under the provisions of section 44 and not otherwise. R.S.O. 1937, c. 272, s. 44 (4); 1944, c. 7, s. 5 (2).

Pipes, poles, wires, etc., on boundary lines.

38. Except as provided by subsection 14 of section 7, where any structure, pipe, pole, wire or other property is erected or placed upon, in, over, under or affixed to any highway forming the boundary line between two local municipi-

palities, or so that such structure, pipe, pole, wire or property is in some places on one side and in other places on the other side of the boundary line, or is on a highway forming the boundary line between two local municipalities although it may deviate so as in some places to be wholly or partly within either of them, the same shall be assessed in each municipality for one-half of the whole assessable value in both municipalities taken together. R.S.O. 1937, c. 272, s. 45.

39.—(1) Land owned or leased by or vested in a municipal corporation or commission or in trustees or any other body acting for and on behalf of a municipal corporation and used for the purpose of supplying water, light, heat or power to the inhabitants of the municipality, or for the purposes of a transportation system or telephone system shall be liable to assessment and taxation for municipal and school purposes in the municipality in which it is situate at its actual value, according to the average value of land in the locality. R.S.O. 1937, c. 272, s. 46 (1); 1944, c. 7, s. 6 (1).

Assessment of land used by municipal public utilities.

(2) Subject to the provisions of subsection 3 and of section 40, subsection 1 shall not apply to or include a highway, street, lane or other public place, nor shall it apply to or include buildings, machinery, works, structures, substructures, superstructures, rails, ties, pipes, poles and other property, works or improvements owned, used or controlled by such municipal corporation, commission, trustees or other body, nor an easement or the right of use or occupation or other interest in land not owned by such municipal corporation, commission, trustees or other body, but every such highway, street, lane or other public place, and all such buildings, machinery, works, structures, substructures, superstructures, rails, ties, pipes, poles and other property, works or improvements so owned, used or controlled, and every such easement or right shall continue to be exempt from assessment and taxation as heretofore. R.S.O. 1937, c. 272, s. 46 (2).

Exceptions.

(3) Notwithstanding anything in this section or in paragraph 9 of section 4, any restaurants, merry-go-rounds and switch-back railways carried on in connection with a transportation system owned, leased or operated by or for a municipal corporation or vest d in or controlled by a commission on behalf of a municipal corporation, shall be assessable. R.S.O. 1937, c. 272, s. 46 (3); 1944, c. 7, s. 6 (2).

Taxation of restaurants, etc., of municipal transportation system.

40. Where a municipal corporation or commission is carrying on the business of selling by retail electrical goods, supplies or appliances and the council passes a by-law declaring that this section shall apply to such corporation or commission,

By-law for taxation of retail shops operated by municipal corporation or commission.

then such corporation or commission shall be assessed and be liable to taxation in respect of such business and the land and buildings owned or occupied for the purposes thereof in the same manner and to the same extent as a retail merchant carrying on the same business. R.S.O. 1937, c. 272, s. 47.

Payment by
public utility
for services.

Rev. Stat.,
c. 96.

41.—(1) Where the council of a municipal corporation, or a commission or trustees or other body acting for and on behalf of the corporation, operates a public utility (as defined in *The Department of Municipal Affairs Act*) which is exempt or partially exempt from municipal taxation, the council, commission, trustees or other body may agree to pay for any of the following municipal services rendered by the corporation or by any other municipal corporation:

- (a) fire protection;
- (b) police protection;
- (c) law enforcement;
- (d) street lighting;
- (e) snow and ice removal, including sanding streets, sidewalks and other thoroughfares;
- (f) drainage;
- (g) sanitation and waste removal;
- (h) conservation of health.

1948, c. 5, s. 5, *part*; 1950, c. 3, s. 9.

Approval of
Department
required.

(2) Notwithstanding any general or special Act, no agreement between a public utility and a municipal corporation to pay for municipal services shall be made without the approval of the Department. 1948, c. 5, s. 5, *part*.

Bridges
and tunnels
over inter-
national
boundary
line.

42. In the case of any bridge or tunnel liable to assessment which belongs to or is in the possession of any person or incorporated company, and which crosses any river forming the boundary between Ontario and any other country or province, the part of such structure within Ontario shall be valued as an integral part of the whole and on the basis of the valuation of the whole, and at its actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises and subject to similar conditions and burdens but subject to the provisions and basis of assess-

ment set forth in subsection 3 of section 37. R.S.O. 1937, c. 272, s. 48.

43. Any bridge or tunnel belonging to or in possession of any person or company between two municipalities in the Province shall be valued as an integral part of the whole and on the basis of valuation of the whole. R.S.O. 1937, c. 272, s. 49.

Bridges and tunnels between municipalities.

44.—(1) Every steam railway company shall transmit annually on or before the 1st day of February to the clerk of every municipality in which any part of the roadway or other real property of the company is situate, a statement showing,

Railway companies to furnish certain statements to clerks of municipalities.

- (a) the quantity of land occupied by the roadway, and the actual value thereof (according to the average value of land in the locality) as rated on the assessment roll of the previous year;
- (b) the vacant land not in actual use by the company and the value thereof;
- (c) the quantity of land occupied by the railway and being part of the highway, street, road or other public land (but not being a highway, street or road which is merely crossed by the line of railway) and the assessable value as hereinafter mentioned of all the property belonging to or used by the company upon, in, over, under, or affixed to the same;
- (d) the real property, other than aforesaid, in actual use and occupation by the company, and its assessable value as hereinafter mentioned,

and the clerk of the municipality shall communicate such statement to the assessor.

(2) The assessor shall assess the land and property aforesaid as follows,

Assessment of railway land.

- (a) the roadway or right-of-way at the actual value thereof according to the average value of land in the locality; but not including the structures, substructures and superstructures, rails, ties, poles and other property thereon;
- (b) the said vacant land, at its value as other vacant lands are assessed under this Act;

- (c) the structures, substructures, superstructures, rails, ties, poles and other property belonging to or used by the company (not including rolling stock and not including tunnels or bridges in, over, under or forming part of any highway), upon, in, over, under or affixed to any highway, street or road (not being a highway, street or road merely crossed by the line of railway) at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises, regard being had to all circumstances adversely affecting the value including the non-user of such property;
- (d) the real property not designated in clauses *a*, *b* and *c* of this subsection in actual use and occupation by the company, at its actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises.

Rails, ties, poles, substructures, etc., not assessable.

(3) Notwithstanding anything in this Act, the structures, substructures, superstructures, rails, ties, poles, wires and other property on railway lands and used exclusively for railway purposes or incidental thereto (except stations, freight sheds, offices, warehouses, elevators, hotels, round-houses and machine, repair and other shops) shall not be assessed.

Notice of assessment.

(4) The assessor shall deliver at, or transmit by post to, any station or office of the company a notice, addressed to the company, of the total amount at which he has assessed the said land and property of the company in his municipality or ward showing the amount for each description of property mentioned in the above statement of the company, and the statement and notice respectively shall be held to be the assessment return and notice of assessment required by sections 13 and 46.

Exemption from other assessments.

(5) A railway company assessed under this section shall be exempt from assessment in any other manner for municipal purposes except for local improvements. R.S.O. 1937, c. 272, s. 50.

Quinquennial railway assessment.

45. When an assessment has been made under section 44, the amount thereof in the roll as finally revised and corrected for that year shall be the amount for which the company shall be assessed for the next following four years in respect of the land and property included in such assessment; but at any time before the return of the assessment roll in any year the said amount may be reduced by deducting therefrom the

value of any land or property included in such assessment which has ceased to belong to the company, and a further assessment may be made of any additional land or property of the company not included in such assessment. R.S.O. 1937, c. 272, s. 51.

NOTICE OF ASSESSMENT

46.—(1) The assessor or his assistant shall prior to the completion of the assessment roll for the municipality or ward, as the case may be, deliver in the manner hereinafter provided to every person named therein, except persons entered on the roll under section 21 or 22 a notice (Form 3) of the sum or sums for which such person has been assessed and such other particulars as are mentioned in the Form, and shall enter in the roll opposite the name of the person the date of delivery of the notice and the entry shall be *prima facie* evidence of the delivery. 1946, c. 3, s. 8, *part*; 1950, c. 3, s. 10.

Notice of
assessment.

(2) When the person assessed is resident in the municipality, the notice shall be delivered by leaving it at his residence or place of business or by mailing it addressed to him at his residence or place of business.

Delivery
of notice,
residents.

(3) When the person assessed is not resident in the municipality, the notice shall be delivered by mailing it addressed to him at his last known address.

Non-
residents.

(4) When a person assessed furnishes the assessor with a notice in writing giving the address to which the notice of assessment may be delivered to him and requesting that the notice be delivered to such address by registered mail, the notice of assessment shall be so delivered, and such notice shall stand until revoked in writing. 1946, c. 3, s. 8, *part*.

Registered
mail.

CORRECTION OF ERRORS

47. Notwithstanding the delivery or transmission of any notice provided for by section 46, the assessor at any time before the time fixed for the return of the assessment roll may correct any error in any assessment and alter the roll accordingly, and he shall do so upon notice being given to him of any error, and, upon so correcting or altering any assessment he shall deliver or transmit to the person assessed an amended notice. R.S.O. 1937, c. 272, s. 54.

Correction
of errors in
roll by
assessor.

48. Where the assessment is made by wards, in case any person removes from a ward before having been assessed therein into a ward for which the assessment roll has been

Amendment
of ward
roll after
completion.

completed, the assessor for the last-mentioned ward may at any time before the 30th day of September amend the roll by entering therein the assessment of such person, and shall forthwith give to him the notice of assessment provided for by section 46, and the person so assessed shall be entitled to appeal to the county judge from the assessment within ten days from the time of giving such notice. R.S.O. 1937, c. 272, s. 55; 1946, c. 3, s. 10.

Clerk to report errors or omissions in roll to court of revision.

49. It shall be the duty of the clerk to report to the court of revision the facts and particulars as to any errors or omissions in the assessment roll of which he may from time to time become aware, and the court of revision shall thereupon take such steps as the court shall deem advisable and necessary to cause such corrections to be made in the roll, and shall give such notice to persons interested as such corrections may render necessary. R.S.O. 1937, c. 272, s. 56.

Where land not assessed.

50.—(1) If at any time it appears to any treasurer or other officer of the municipality that land liable to assessment has not been assessed in whole or in part for the current year or for either or both of the next two preceding years, he shall report the same to the clerk of the municipality; thereupon, or if the omission to assess comes to the knowledge of the clerk of the municipality in any other manner, the clerk shall enter such land on the collector's roll, or roll for non-residents, as the case may require, as well for the arrears of the preceding year or years, if any, as for the tax of the current year, and the valuation of the land shall be the average of the three previous years, if assessed for the said three years, but if not so assessed, the clerk shall require the assessor for the current year to value the land, and it shall be the duty of the assessor to do so when required, and to certify the valuation in writing to the clerk. R.S.O. 1937, c. 272, s. 57 (1); 1946, c. 3, s. 11 (1).

Omissions of business assessment.

(2) If at any time it appears to any officer of the municipality that any business assessment has been omitted in whole or in part from the assessment roll for the current year or for either or both of the next two preceding years, he shall report the same to the clerk of the municipality; thereupon, or if the omission to assess comes to the knowledge of the clerk in any other manner, the clerk shall enter such business assessment on the assessment roll from which such assessment has been omitted, and as well for the preceding year as for the current year, on the collector's roll for the current year, but in respect to any assessment for a preceding year or years the taxes payable in respect thereto shall be calculated at the rates of taxation levied for such year or years. R.S.O. 1937, c. 272, s. 57 (2); 1948, c. 5, s. 6 (1).

(3) Where the clerk performs any of the duties required by this section he shall forthwith thereafter deliver to or send by registered letter post to the person so taxed a notice setting out the amount of the assessment and of the taxes entered on the roll, and the same rights in respect of appeal shall apply as if the building or land or business had been assessed in the usual way. R.S.O. 1937, c. 272, s. 57 (3); 1946, c. 3, s. 11 (2); 1948, c. 5, s. 6 (2). ^{Notice to person taxed and right of appeal.}

51.—(1) The assessor shall, after the return of the assessment roll, add to the roll, ^{Additions to roll.}

- (a) the value of any building as determined by section 33 which after the return of the roll is erected, altered or enlarged and not assessed and entered in the roll;
- (b) the value of any building or land or portion thereof which after the return of the roll ceases to be exempt from taxation; and
- (c) the name of any person who after the return of the roll commences to occupy or use land for any business purpose mentioned in section 6 and the amount of the business assessment with respect thereto. 1943, c. 2, s. 2 (1).

(2) Where an addition is made to the roll under this section, the amount of the taxes to be levied thereon shall be computed by reference to the amount of taxes which would have been levied for the current year in respect of such building or land if it had been previously assessed and shall be the amount of such taxes that is proportionate to the part of the current year then remaining and shall be entered on the collector's roll and collected in the same manner as if the building or land had been assessed in the usual way. 1942, c. 34, s. 3 (3), *part*. ^{Amount of taxes.}

(3) Where the roll is returned upon which the taxes for the following year are levied, the assessor shall add to such roll the value of any such building or land and the amount of the business assessment, if any. 1942, c. 34, s. 3 (3), *part*; 1943, c. 2, s. 2 (2). ^{Idem.}

(4) Where an addition is made to the roll under this section, the assessor shall forthwith deliver or transmit a notice of assessment to the person assessed in respect thereof, and the same rights in respect of appeal shall apply as if the building or land had been assessed in the usual way. 1942, c. 34, s. 3 (3), *part*. ^{Notice.}

Distribu-
tion.

(5) Where taxes are levied under this section, the amount thereof shall be distributed among the bodies that would have received them had such taxes been levied in the usual way, in the same proportion as the levy of each of such bodies bears to the total levy, and in making such distribution each of such bodies shall suffer proportionately for any deficiency caused by the abatement of or inability to collect such taxes.

Treasurer's
statement.

(6) The treasurer making the distribution required by subsection 5 shall at the same time deliver to each of the bodies to which the distribution is made a statement sufficient to enable such bodies to determine the correctness of the distribution. 1946, c. 3, s. 12 (1).

Assessor
to make
inquiries
so as to
prevent
creation of
false votes.

52.—(1) To prevent the creation of false votes, where a person claims to be assessed, or to be entered or named in any assessment roll, or claims that another person should be assessed, or entered or named in such assessment roll, as entitled to be a voter, and the assessor has reason to suspect that the person so claiming, or for whom the claim is made, has not a just right to be so assessed or to be entered or named in the roll as entitled to be a voter, it shall be the duty of the assessor to make reasonable inquiries before assessing, entering or naming any such person in the assessment roll.

Persons
entitled to
be assessed,
etc., to be
entered on
roll without
request.

(2) Any person entitled to be assessed or to have his name inserted or entered in the assessment roll of a municipality, shall be so assessed, or shall have his name so inserted or entered, without any request in that behalf, and a person entitled to have his name so inserted or entered in the assessment roll, or in the list of voters based thereon, or to be a voter in the municipality, shall, in order to have the name of any other person entered or inserted in the assessment roll or list of voters, as the case may be, have for all purposes the same right to apply, complain or appeal to a court or a judge in that behalf as such other person would or can have personally, unless such other person actually dissents therefrom.

Penalty for
wrongfully
inserting
names in
roll.

(3) Any person who wilfully and improperly inserts or procures or causes the insertion of the name of a person in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent in any such case to give to a person not entitled thereto either the right or an apparent right to be a voter, or who wilfully inserts or procures or causes the insertion of any fictitious name in the assessment roll, or who wilfully and improperly omits, or procures or causes the omission of the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount, with

intent in any such case to deprive any person of his right to be a voter, shall be guilty of an offence and liable to a penalty of not more than \$200, or to imprisonment for a term of not more than six months, or to both.

(4) In this section, "voter" means voter as defined in *The Voters' Lists Act*. R.S.O. 1937, c. 272, s. 58.

Interpretation.
Rev. Stat.,
c. 414.

TIME FOR ASSESSMENT AND RETURN OF ROLL

53.—(1) Except as provided in subsections 2 and 3, in every municipality the assessment shall be taken yearly between the 1st day of January and the 30th day of September and the assessment roll shall be returned to the clerk not later in the same year than the 1st day of October.

Time for
yearly
assessment
and return
of assess-
ment roll.

(2) The council of a municipality may by by-law provide that the assessment shall be taken between the 1st day of January and such day thereafter as is named in the by-law and that the assessment roll shall be returned to the clerk not later in the same year than the day named in the by-law, but the day named for return of the assessment roll shall be not earlier than the 1st day of July and not later than the 1st day of October in the same year. 1949, c. 6, s. 5, *part*.

Authority to
expedite
return of
assessment
roll.

(3) The council of a municipality divided into wards, or where there are no wards, divided into not less than ten polling subdivisions, may by by-law provide that the assessment shall be taken and the assessment roll returned to the clerk by wards or divisions of wards or, where there are no wards, by separate specified groupings of polling subdivisions; each group comprising not less than two polling subdivisions; and the by-law shall fix prior and separate periods, dates and times for taking the assessment, for return of the assessment roll and for assessment appeals to the court of revision, in respect of each ward or division of a ward or each group of polling subdivisions, as the case may be, but in no case shall,

Special mode
for yearly
assessment
by wards or
polling sub-
division
groups.

- (a) the time named for return of any of the assessment rolls be later than the 1st day of October;
- (b) the period named for assessment appeals to the court of revision be less than ten days or more than fourteen days from the day on which the relevant assessment roll is returned;
- (c) the time fixed for hearing any assessment appeal by the court of revision be earlier than ten days from the day upon which the appeal may last be made or be

later than the 30th day of November. 1949, c. 6, s. 5, *part*; 1950, c. 3, s. 11 (1).

Application of section 69.

(4) The provisions of section 69 so far as they are not inconsistent with the provisions of a by-law passed under subsection 3 shall apply to appeals to the court of revision.

By-laws to have continuing effect.

(5) A by-law passed under subsection 2 or 3 shall remain in force from year to year until repealed.

Special extension of time for return of assessment roll.

(6) Where in any year it appears to the council of a municipality that the assessment roll or the assessment roll of any ward, division of a ward or group of polling subdivisions will not be returned to the clerk by the 1st day of October, the council may, by by-law passed with the approval of the Department, extend the time for return of that assessment roll for such period, not exceeding sixty days, subsequent to the 1st day of October as appears necessary; provided that when such a by-law is passed, the time for closing the court of revision for that year shall be extended for a period corresponding to that for which the time for return of the assessment roll has been extended.

Time of passing and approval of by-law.

(7) No by-law passed under subsection 6 shall be valid unless it is approved by the Department and passed by the council on or before the 1st day of October. 1949, c. 6, s. 5, *part*.

Time for closing court of revision.

(8) Except as provided in subsection 6, in every municipality the court of revision shall hear and dispose of all appeals and certify the assessment roll in every year on or before the 30th day of November. 1949, c. 6, s. 5, *part*; 1950, c. 3, s. 11 (2).

Where county court of revision established.

(9) Notwithstanding subsection 3 or 8 and except as provided in subsection 6, in any county where a county court of revision has been established the time for hearing and disposing of all appeals and certifying the assessment roll of any municipality forming part of the county for municipal purposes shall be the 15th day of January in the year following that in which the assessment roll was returned. 1950, c. 3, s. 11 (3).

Special Act superseded.

(10) Where the provisions of a special Act conflict with the provisions of this section, the latter shall prevail. 1949, c. 6, s. 5, *part*.

Last revised assessment roll.

54.—(1) The yearly assessment roll of a municipality last returned to the clerk, when corrected, revised and certified

by the court of revision shall be for all purposes the last revised assessment roll of the municipality.

(2) Where in a municipality the assessment roll is returned by wards or divisions of wards or by groups of polling subdivisions, as provided for in subsection 3 of section 53, the assessment rolls of all the wards or divisions of wards or of all the groups of polling subdivisions last returned to the clerk, when corrected, revised and certified by the court of revision, shall be for all purposes the last revised assessment roll of the municipality.

Last revised assessment roll where assessment taken by wards, etc.

(3) Where in a municipality no appeals are made to the court of revision and the time for appealing has elapsed, the assessment roll shall be presented by the clerk to the court of revision to be certified, and the assessment roll as so certified shall be for all purposes the last revised assessment roll of the municipality.

Last revised assessment roll where no appeals are made.

(4) In every municipality the rate of taxation for each year shall be fixed and levied on the assessment taken in the preceding year according to the last revised assessment roll thereof.

Taxation to be levied on last revised assessment roll.

(5) Nothing in this section shall in any way deprive any person of any right of appeal provided for in this Act, and the same may be exercised and the appeal proceeded with in accordance with this Act, notwithstanding that the assessment roll has been certified by the court of revision and become the last revised assessment roll.

Rights of appeal preserved.

(6) Where as the result of an appeal to the county judge or the Ontario Municipal Board any assessment is added, reduced, increased or otherwise amended or altered, the taxes levied and payable with respect to such assessment shall be adjusted accordingly and, if the taxes levied have been paid, any overpayment shall be refunded by the municipality.

Adjustment of taxes as result of appeal.

(7) Where the provisions of a special Act conflict with the provisions of this section, the latter shall prevail. 1949, c. 6, s. 5, *part*.

Special Act superseded.

55. Where an addition of any part of the localities adjacent to any city, town or village has been made to the city, town or village, in any year subsequent to the 30th day of September, under *The Municipal Act*, the council of the city, town or village may pass a by-law in the succeeding year, adopting the assessment of the addition as last revised while a part of the adjoining municipality as the basis of the assess-

Assessment of localities added to cities and towns.

Rev. Stat., c. 243.

ment for said part for that year, although the assessment of the remainder of the city, town or village has been made, and the rate of taxation has been levied in accordance with sections 53 and 54, and the levying of a proportionate share of the taxation upon the addition shall not invalidate either the assessment of the remainder or the tax levied thereon, and the qualification of municipal electors in the addition shall, for the said succeeding year, be the same as that required in the municipality from which the part has been taken. R.S.O. 1937, c. 272, s. 61; 1948, c. 5, s. 9.

Affidavit to
be attached
to roll.

56.—(1) Upon completion of the assessment roll, the assessment commissioner or assessor shall attach thereto his affidavit or solemn affirmation.

Making
affidavit.

(2) The affidavit or affirmation (Form 4) may be made before the clerk of the municipality, a justice of the peace having jurisdiction in the municipality, a commissioner for taking affidavits or a notary public.

Roll to be
delivered
to clerk.

(3) The assessment commissioner or assessor shall on or before the day fixed for the return of the assessment roll deliver it to the clerk of the municipality completed and added up, with the affidavit attached, and the clerk shall, immediately upon receipt of the roll, file it in his office, and it shall be open to inspection during office hours.

Omission
to attach
affidavit.

(4) The omission to attach to the assessment roll the affidavit or solemn affirmation required by subsection 1 shall not invalidate the roll. 1946, c. 3, s. 15, *part*.

Rotary
system.

57.—(1) Any municipality instead of ascertaining the values of all lands in the municipality every year may by by-law provide for a two-year or three-year rotary system of ascertaining such values under which the assessor shall ascertain in one year the values of lands in one-half of the municipality and in the following year the values in the other one-half, or in one year the values in one-third of the municipality and in the following year the values in a second one-third and in the following year the values in the third one-third. 1946, c. 3, s. 15, *part*; 1950, c. 3, s. 12 (1).

Where rotary
system first
adopted.

(2) When a municipality first adopts the rotary system of ascertaining values of lands therein as provided in subsection 1, the system shall for the purpose of assessment become effective in the second year in the case of a two-year system and in the third year in the case of a three-year system and in the meanwhile the assessments of all such lands shall be entered on the yearly assessment roll or rolls at the values last

ascertained before the system was adopted, except that the assessment of any such land may include in any year the value of any building not previously assessed which has been erected or placed on such land or the amount by which the value of any building which has been assessed is increased by any enlargement or alteration thereof. 1950, c. 3, s. 12 (2).

COURT OF REVISION

58.—(1) Subject to sections 59 and 60, in every city the court of revision shall consist of three members, one of whom shall be appointed by the city council and one by the mayor, and the third shall be the official arbitrator appointed for the city under *The Municipal Arbitrations Act*, and in the case of cities where there is no official arbitrator or where such official arbitrator is a judge or junior judge of the county in which the city is situated, the sheriff of the county shall be the third member in the case of a city which is the county town, and the third member of the court of revision in any city which is not the county town and for which no such official arbitrator has been appointed or where such official arbitrator is a judge or junior judge of the county in which the city is situated shall be appointed by the municipal council of the city.

Court of revision in cities, how constituted.

Rev. Stat., c. 244.

(2) Each member of the court of revision for a city shall be paid such sum for his services as the council may by by-law or resolution provide.

Payment of members.

(3) No member of the city council and no officer or employee of the city corporation shall be a member of the court of revision.

Certain persons disqualified.

(4) The appointed members of the court of revision shall hold office until their successors are appointed, but the mayor or council may each or either of them, after the organization of a new council and before the 1st day of March in any year, appoint a member of the court of revision in place of any member appointed by the mayor or council in a preceding year.

Appointment of members.

(5) Two members of any court of revision under this section shall form a quorum, and upon the death or resignation of any member of any such court a successor shall immediately thereafter be appointed by the authority which appointed the member so dying or resigning.

Quorum.

(6) In case of a vacancy in the office of sheriff, or if the sheriff is unable to act from any cause in cities where there is no official arbitrator, the registrar of deeds for the county

Filling vacancies.

or registry division of the county whose office is in such city, shall act as the third member of the court during such vacancy or inability of the sheriff to act. R.S.O. 1937, c. 272, s. 64.

Constitution
of court in
city over
200,000.

59.—(1) In a city having a population of not less than 200,000 the court of revision shall consist of one member only, appointed by the council of the city, who shall be a barrister of at least ten years standing at the bar of Ontario, but who shall not be a member of the city council or an officer or employee of the city corporation.

Name of
member.

(2) Such member shall be known as "The Commissioner of the Court of Revision" and shall hold office during the pleasure of the council.

Illness or
absence of
com-
missioner.

(3) In case of the illness or absence from Ontario of such commissioner the council may appoint another person possessing the like qualifications to act during such illness or absence, and pending such appointment the commissioner may appoint such a person to act as his deputy for a period not exceeding two weeks.

Appointment
of deputy
com-
missioner.

(4) The commissioner may also from time to time appoint another person possessing like qualifications to act as his deputy for a period not exceeding one month, and such person when so acting shall have all the powers of the commissioner and shall be paid such sum for his services as the council may by by-law or resolution provide. R.S.O. 1937, c. 272, s. 65.

Additional
courts of
revision.

(5) The council may from time to time divide the court of revision into two or more divisions, and in such case each division shall consist of one member to whom all the provisions of this section shall apply *mutatis mutandis*. 1946, c. 3, s. 16.

Alternative
form of
court of
revision in
cities of
200,000
population.

60.—(1) In a city having a population of not less than 200,000 in lieu of the court of revision being constituted as provided in section 59, the council may by by-law constitute one or more courts of revision each of which shall consist of one or three members, as the by-law may provide.

Appointment
of members.

(2) Every member of a court of revision shall be appointed by by-law and hold office during pleasure of the council.

Persons in-
eligible to
be members.

(3) No person who is or during the preceding year was a member of the city council or an officer or employee of the corporation may be appointed or hold office as a member of a court of revision.

Quorum.

(4) Where a court of revision consists of three members, two shall form a quorum.

(5) Each member of the court of revision shall be paid such sum for his services as the council may by by-law provide. Compensation.

(6) A by-law passed under subsection 1 shall remain in force from year to year until it is repealed and while it is in existence under section 59. 1949, c. 6, s. 6. Continuing effect of by-law.

61.—(1) In municipalities other than cities, the court of revision shall consist of five members appointed by the council of the municipality and such members other than members of the council may be paid such remuneration and expenses as the council may by by-law provide. 1938, c. 37, s. 2 (2), *part*; 1946, c. 3, s. 17. Constitution of court in municipalities other than cities.

(2) Every such member shall be a person eligible to be elected a member of the council, or shall be a member of the council. 1938, c. 37, s. 2 (2), *part*. Qualification of members.

(3) Three members of the court of revision shall be a quorum and a majority of a quorum may decide all questions before the court; but no member shall act when an appeal is being heard respecting any property in which he is directly or indirectly interested. R.S.O. 1937, c. 272, s. 66 (3). Quorum.

62.—(1) Where a county assessor is appointed under section 86, the council of the county may constitute a court of revision to act in lieu of the court of revision referred to in section 61 and where a court is constituted under this section a court shall not be constituted under section 61. County court of revision.

(2) Such court of revision shall consist of five members to be appointed by the council of the county and such members shall hold office during pleasure of the said council and shall be paid such remuneration and expenses as the said council may by by-law provide. Members.

(3) Each member of such court of revision shall be a person eligible to be elected a member of the council of a municipality within the county for municipal purposes, but shall not be a member of any such council. Idem.

(4) The provisions of this Act applicable to a court of revision appointed under section 61 shall apply to a court of revision appointed under this section. 1943, c. 2, s. 3. Powers and duties.

63. Every member of the court of revision before entering upon his duties, shall take and subscribe before the clerk of Oath of members of court of revision.

the municipality the following oath (or affirmation in cases where, by law, affirmation is allowed):

"I,, do solemnly swear (or affirm) that I will, to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals of the court of revision, which may be brought before me for trial as a member of said court."

R.S.O. 1937, c. 272, s. 67.

Clerk to keep record of decisions.

64. The clerk of the municipality shall be the clerk of the court, and shall keep in a book a record of the proceedings and decisions of the court, which shall be certified by the chairman of the court. R.S.O. 1937, c. 272, s. 68.

Meetings of court.

65. The court may meet and adjourn, from time to time, at pleasure, or may be summoned to meet at any time by the head of the municipality; but the first sitting shall not be held until after the expiration of at least ten days from the expiration of the time within which notice of appeals may be given to the clerk of the municipality. R.S.O. 1937, c. 272, s. 69.

Court to try all complaints, etc.

66. At the time or times appointed, the court shall meet and try all complaints in regard to persons wrongly placed upon or omitted from the roll, or assessed at too high or too low a sum. R.S.O. 1937, c. 272, s. 70.

May administer oaths, etc.

67. The court, or some member thereof, may administer an oath to any party or witness before his evidence is taken, and may issue a summons to any witness to attend such court. R.S.O. 1937, c. 272, s. 71.

Penalty for failure to attend as witness.

68. Any person summoned to attend the court of revision or before a county judge under the provisions of this Act as a witness who fails, without good and sufficient reason, to attend, having first been tendered compensation for his time at the rate of \$3 per day and his proper travelling expenses if he resides more than three miles from the place of trial, or who having attended, or being present in court, refuses to be sworn, if required to give evidence, shall be guilty of an offence and liable to a penalty of not more than \$25. R.S.O. 1937, c. 272, s. 72; 1949, c. 6, s. 7.

PROCEEDINGS FOR THE TRIAL OF COMPLAINTS

Notice of complaint by person aggrieved.

69.—(1) Any person complaining of an error or omission in regard to himself, as having been wrongly inserted in or omitted from the roll or as having been undercharged or overcharged by the assessor in the roll may personally or by his agent give notice in writing to the clerk of the municipality

or to the assessment commissioner, if any, that he considers himself aggrieved for any or all of the causes aforesaid, and shall give a name and address where notices can be served by the clerk as hereinafter provided.

(2) The notice shall be given to the clerk or to the assessment commissioner, if any, within fourteen days after the day upon which the roll is required by law to be returned, or within fourteen days after the return of the roll, in case the roll is not returned within the time fixed for that purpose.

Time within which notices of appeal to the court are to be given.

(3) If a person assessed thinks that any person has been assessed too low or too high or has been wrongly inserted in or omitted from the roll, he may, within the time limited by subsection 2, give notice in writing to the clerk of the municipality or to the assessment commissioner, if any, and the clerk shall give notice to such person and to the assessor of the time when the matter will be tried by the court of revision; and the matter shall be decided in the same manner as complaints by a person assessed with regard to his own assessment.

When elector thinks any person assessed at too low or too high a rate.

(4) In the case of a town, village or township the court of revision shall receive as evidence of an application to have the name of any person entered on the roll who is temporarily absent from the municipality, an affidavit (Form 5) of some other person who has and deposes that he has personal knowledge of the matter set forth in the affidavit, if the affidavit is made not earlier than the 10th day next preceding the last day for making complaints to the court of revision and is delivered to the clerk before the time for making complaints has expired.

Affidavit as to temporary absence to be received by court of revision as evidence.

(5) The clerk of the court shall post up in some convenient and public place within the municipality or ward a list of all complainants, on their own behalf, against the assessor's return, and of all complainants on account of the assessment of other persons, stating the names of each, with a concise description of the matter complained against, together with an announcement of the time when the court will be held to hear the complaints.

Clerk to give notice by posting up list.

(6) No alteration shall be made in the roll unless under a complaint formally made according to the above provisions.

Alteration of roll only on complaint.

(7) The clerk of the court shall enter the appeals on the list in the alphabetical order of the names of the appellants, and the court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. R.S.O. 1937, c. 272, s. 73 (1-7).

Order of hearing appeals.

Form of list
of appeals.

(8) Such list may be in the following form:

Appeals to be heard at the Court of Revision to be held at
.....on the.....day of....., 19.....
Appellant. Respecting whom. Matter complained of.
A.B. SelfOvercharged on land.
C.D. E.F. Name omitted.
G.H. J.K. Not *bona fide* owner or tenant.
&c. &c.

R.S.O. 1937, c. 272, s. 73 (8); 1948, c. 5, s. 10.

Clerk to
advertise
sittings of
court;

(9) The clerk shall also advertise in some newspaper published in the municipality, or, if there be no such paper, then in some newspaper published in the nearest or a neighbouring municipality in which one is published, the time at which the court will hold its first sittings for the year, and the advertisement shall be published at least ten days before the time of such first sittings. R.S.O. 1937, c. 272, s. 73 (9); 1950, c. 3, s. 13 (1).

to leave a
list with
assessor;

(10) The clerk shall also cause to be left at the residence or office of each assessor, a list of all the complaints respecting his roll.

and prepare
notice to
parties
concerned.

(11) The clerk shall prepare a notice according to the following form for each person with respect to whom a complaint has been made:

Take notice that the Court of Revision will sit at.....on
the.....day of....., in the matter of the following
appeal.

Appellant.....
Subject:—That you are not the *bona fide* owner or tenant,
or are overcharged in assessment on.....
(as the case may be).

(Signed) X.Y., Clerk.

To J.K. or J.S.

and he shall also notify each person who has made a complaint of the date of the sittings of the court. R.S.O. 1937, c. 272, s. 73 (10, 11).

Manner
of service.

(12) If the person resides or has a place of business in the municipality, the clerk shall cause the notice to be left at the person's residence or place of business or sent by mail addressed thereto. R.S.O. 1937, c. 272, s. 73 (12); 1946, c. 3, s. 18 (1).

How
absentees
served.

(13) If the person is not known, then the notice shall be left with some grown-up person on the assessed premises, if there is any such person there resident; or if the person is not resident in the municipality, then the notice shall be addressed to such person through the post office. R.S.O. 1937, c. 272, s. 73 (13).

(14) Every notice hereby required whether by publication, advertisement, letter or otherwise shall be completed at least ten days before the sitting of the court, and the clerk shall certify to the court, at the first day of its sitting, the notices which have been so completed. R.S.O. 1937, c. 272, s. 73 (14); 1946, c. 3, s. 18 (2).

(15) Where necessary, the clerk of the municipality may, at the cost of the municipality, call to his aid such assistance as may be required to effect the services which he is required by law to make, and in the event of his failure to effect such services in time for the first sitting of the court, the court, in its discretion, may appoint an adjourned sitting for the purpose of hearing the appeals for which the services were not effected in time for the first day, and the proper services shall be made for such adjourned day. R.S.O. 1937, c. 272, s. 73 (15).

(16) In other cases, the court, after hearing the complainant and the assessor or assessors and any evidence adduced and, if deemed desirable, the person complained against, shall determine the matter and confirm or amend the roll accordingly, and the court may, in determining the value at which any land shall be assessed, have reference to the value at which similar land in the vicinity is assessed, and in all cases which come before the court it may increase the assessment or change it by assessing the right person, the clerk giving the latter or his agent ten days notice of such assessment, within which time he must appeal to the court if he objects thereto. R.S.O. 1937, c. 272, s. 73 (17); 1946, c. 3, s. 18 (3).

(17) It shall not be necessary to hear upon oath the complainant or assessor or the person complained against, except where the court deems it necessary or proper or where the evidence of the person is tendered on his own behalf or required by the opposite party.

(18) If either party fails to appear, either in person or by an agent, the court may proceed *ex parte*.

(19) Where it appears that there are palpable errors in the roll of any municipality or of any ward, which need correction, the court may at any time during its sitting correct the same, if no alteration of assessed values is involved, and if any alteration of assessed value is necessary, the court may extend the time for making complaints for ten days from a day named by the court and may then meet and determine the additional matter complained of, and the assessor may be or may be directed by the court to be, for such purpose, the complainant. (See also Section 47.) R.S.O. 1937, c. 272, s. 73 (18-20).

Procedure
upon
appeals.

(20) Upon an appeal upon any ground against an assessment, the court of revision may reopen the whole question of the assessment, so that omissions from, or errors in, the assessment roll may be corrected, and the accurate amount for which the assessment should be made and the person or persons who should be assessed therefor may be placed upon the roll by the court, and if necessary the roll of any particular ward or subdivision of the municipality, even if returned as finally revised, may be opened so as to make the same correct in accordance with the finding of the court.

Alteration
of roll by
clerk.

(21) The clerk shall forthwith alter and amend the assessment roll in accordance with the decisions of the court of revision, and shall write his name or initials against every alteration or amendment. R.S.O. 1937, c. 272, s. 73 (22, 23)

Notice of
decision.

(22) When the court of revision has heard and decided an appeal, the clerk shall thereupon cause notice of the decision in such appeal to be given by registered mail to the persons to whom notice of the hearing of such appeal was given. 1950, c. 3, s. 13 (2).

Roll to be
binding not-
withstanding
errors in it
or in notice
sent to
persons
assessed.

70. The roll as finally revised and certified by the court of revision shall, subject to subsections 5 and 6 of section 54, be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 46, or the omission to deliver or transmit such notice, provided that the provisions of this section in so far as they relate to the omission to deliver or transmit such notice shall not apply to any person who has given the clerk or assessment commissioner the notice provided for in subsection 4 of section 46. R.S.O. 1937, c. 272, s. 74; 1948, c. 5, s. 11; 1949, c. 6, s. 8.

Copy of
assessment
roll duly
certified to
be evidence.

71. A copy of any assessment roll, or portion of any assessment roll, written or printed, and under the seal of the corporation, and certified to be a true copy by the clerk of the municipality, shall be received as *prima facie* evidence in any court of justice without proof of the seal or signature, or the production of the original assessment roll of which such certified copy purports to be a copy, or a part thereof. R.S.O. 1937, c. 272, s. 75.

APPEALS FROM THE COURT OF REVISION

Appeal lies
from
decision or
refusal to
decide.

72.—(1) An appeal to the county judge shall lie, at the instance of the municipal corporation, or at the instance of the assessor or assessment commissioner, or at the instance of any person assessed or of any municipal elector of the municipality

not only against a decision of the court of revision on an appeal to that court, but also against any omission, neglect or refusal of that court to hear or decide an appeal. R.S.O. 1937, c. 272, s. 76 (1).

(2) Subject to any special Act affecting any particular municipality, the person appealing shall, in person or by his solicitor or agent, serve upon the clerk of the municipality or the assessment commissioner, if any, within ten days after notice of the decision of the court of revision has been given by the clerk under subsection 22 of section 69, a written notice of his intention to appeal to the county judge. 1950, c. 3, s. 14 (1). Service of notice of appeal.

(3) In any municipality in which a by-law has been passed under subsection 3 of section 53, the provisions of this section so far as they are not inconsistent with the provisions of such by-law, shall apply to appeals to the county judge. 1949, c. 6, s. 9 (2); 1950, c. 3, s. 14 (2). Where by-law under s. 53, subs. 3, in force

(4) The clerk shall, immediately after the time limited for filing appeals, forward a list thereof to the judge who shall then notify the clerk of the day he appoints for the hearing thereof and shall, if in his opinion the appeals or any of them appear to involve the calling or examination of witnesses, fix the place for holding such court within the municipality from the court of revision of which such appeal is made, or at the place nearest thereto where the sittings of the division court within his jurisdiction are held. R.S.O. 1937, c. 272, s. 76 (3). Day and place for hearing.

(5) The clerk shall thereupon give notice to all the appellants and all the persons appealed against in the same manner as is provided for giving notice on a complaint under section 69; but in the event of failure by the clerk to have the required service of the notices in any appeal made, or to have the same made in proper time, the judge may direct service to be made for some subsequent day upon which he may sit. R.S.O. 1937, c. 272, s. 76 (4); 1941, c. 5, s. 3. Clerk to notify parties.

(6) The clerk of the municipality shall cause a notice to be posted up in a conspicuous place in his office, or the place where the council of the municipality holds its sittings, containing the names of all the appellants and persons appealed against, with a brief statement of the ground or cause of appeal, together with the date at which a court will be held to hear appeals. List of appellants, etc., to be posted up by clerk.

(7) The clerk of the municipality shall be the clerk of such court; and he shall keep, in the book referred to in section Clerk of court.

64, a record of the decision of the judge upon each appeal. R.S.O. 1937, c. 272, s. 76 (5, 6).

Appeals to be determined by December 31st.

(8) At the court so held the judge shall hear the appeals and may adjourn the hearing from time to time and defer judgment thereon at his pleasure but so that, subject to any special Act affecting a particular municipality, all appeals are determined not later than the 31st day of December in the year in which the appeals are made. 1949, c. 6, s. 9 (3), *part*; 1950, c. 3, s. 14 (3).

Judge to hear appeals continuously where roll returned by wards, etc.

(9) Where the assessment is taken and the assessment roll is returned by wards or divisions of wards or by groups of polling subdivisions in any municipality, the county judge shall arrange from time to time throughout the year to sit and hear appeals from the court of revision upon the determination of appeals made to the court with respect to each roll, but so that all appeals are determined not later than the 31st day of December in the year in which the appeals are made. 1949, c. 6, s. 9 (3), *part*; 1950, c. 3, s. 14 (4).

Time for hearing where county court of revision.

(10) Where in any county a county court of revision has been constituted, the time for the judge to determine appeals from such court shall be not later than the 15th day of February in the year following that in which the appeals to such court were made. 1950, c. 3, s. 14 (5).

Extension of time for determination of appeals.

(11) Where in any year the time for closing the court of revision in a municipality is extended under subsection 6 of section 53, the time for the judge to determine appeals is correspondingly extended. 1949, c. 6, s. 9 (3), *part*.

Subpoena.

(12) A subpoena to compel the attendance of any witness required before the county judge upon any appeal under this Act may be issued by the clerk of the county court of the county in which is situated the municipality whose assessment roll is in question, and the subpoena shall be tested as are other subpoenas issued out of the county court of the said county in actions therein and may be entitled as is provided in section 75. R.S.O. 1937, c. 272, s. 76 (8).

Assessment roll to be produced to the court, and amended, etc.

73. At the court to be held by the county judge, or acting judge of the court, to hear the appeals hereinbefore provided for, the person having charge of the assessment roll passed by the court of revision shall appear and produce such roll, and all papers and writings in his custody connected with the matter of the appeal, and the roll shall be altered and amended according to the decision of the judge, if then given, who shall write his initials against any part of the roll in which any

mistake, error or omission is corrected or supplied, and if the decision is not then given the clerk of the court shall, when the decision is given, forthwith alter and amend the roll according thereto, and shall write his name or initials against every such alteration or correction, and shall forthwith notify the parties or their agents by registered post. R.S.O. 1937, c. 272, s. 77.

74.—(1) In all proceedings before the county judge, or acting judge of the court, under or for the purposes of this Act, such judge shall possess all such powers for compelling the attendance of and for the examination on oath of all parties, whether claiming or objecting or objected to, and of all other persons whatsoever, and for the production of books, papers, rolls and documents, and for the enforcement of his orders, decisions and judgments, as belong to or might be exercised by him in the county court.

Powers of judge sitting in appeal from court of revision.

(2) The hearing of the appeal by the county judge shall, where questions of fact are involved, be in the nature of a new trial, and either party may adduce further evidence in addition to that heard before the court of revision, subject to any order as to costs or adjournment which the judge may consider just. R.S.O. 1937, c. 272, s. 78.

Appeal to county judge where question of fact involved.

75. All process or other proceedings by way of appeal may be entitled as follows:

Style of proceedings.

In the Matter of Appeal from the Court of Revision of
the.....of.....
....., Appellant,
and
....., Respondent,

and the same need not be otherwise entitled. R.S.O. 1937, c. 272, s. 79.

76. The costs of any proceeding before the court of revision or before the judge as aforesaid shall be paid by or apportioned between the parties in such manner as the court or judge thinks fit, and where costs are ordered to be paid by any party claiming or objecting or objected to, or by any assessor, clerk of a municipality, or other person, payment thereof shall be enforced, when ordered by the court of revision by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the judge by execution to be issued as the judge may direct, either from the county court or the division court within the county in which the municipality or assessment district, or some part thereof, is situated, in the same manner as upon an ordinary judgment for costs recovered in such court. R.S.O. 1937, c. 272, s. 80.

Costs to be apportioned by the judge and how enforced.

What costs chargeable.

77. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance, and none other, and shall be taxed according to the allowance in the division court for such costs, and in cases where execution issues, the costs thereof as in the like court, and of enforcing the same, may also be collected thereunder. R.S.O. 1937, c. 272, s. 81.

Expenses of county judges on assessment appeals.

78. County court judges shall be entitled to receive from the several municipalities as their expenses for holding courts in such municipalities other than the county town of the county in which the judge resides, for the purpose of hearing appeals from the court of revision under the provisions of this Act, the same sums as they are allowed for holding courts for revising voters' lists. R.S.O. 1937, c. 272, s. 82.

When decision reserved.

79.—(1) When the decision of the judge is reserved at the hearing and is subsequently given, the clerk shall forthwith cause notice of the decision to be given by registered mail to the persons to whom notice of the hearing was given.

Judge's decision final.

(2) Except as provided in section 80, the decision of the judge shall be final. 1946, c. 3, s. 20.

APPEALS TO MUNICIPAL BOARD

Appeals to Municipal Board.

80.—(1) The municipal corporation, the assessor or assessment commissioner or any person assessed may appeal from the decision of the county judge to the Ontario Municipal Board or, where no appeal is taken to the county judge, may appeal direct from the decision of the court of revision to the Ontario Municipal Board. 1946, c. 3, s. 21 (1); 1948, c. 5, s. 12 (1).

Appeal under ss. 50, 51 and 124.

(2) An appeal shall also lie to the Ontario Municipal Board from a decision,

(a) of the county judge; or

(b) of the court of revision, where no appeal is taken to the county judge,

given under the provisions of sections 50, 51 and 124. 1948, c. 5, s. 12 (2).

Provisions applicable to appeals; powers of Board.

(3) Except as provided in subsections 4 and 5, sections 72 to 79 and sections 81 and 82 shall apply to appeals taken under subsection 1 or 2, and on such appeals the Board shall have the powers and duties of a county judge under the said sections. 1946, c. 3, s. 21 (2), *part*.

(4) A notice of appeal to the Board under this section shall be sent by the party appealing by registered mail to the secretary thereof and to the persons to whom notice of the hearing before the court of revision or judge, as the case may be, was given within twenty-one days after the decision of the court of revision or county judge has been delivered in open court or when the decision is reserved, within twenty-one days after notice thereof has been given by the clerk under subsection 22 of section 69 or subsection 1 of section 79, as the case may be. 1946, c. 3, s. 21 (2), *part*; 1947, c. 3, s. 19.

(5) Upon receipt of a notice of appeal under this section, the secretary of the Board shall arrange a time and place for hearing the appeal and shall send notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing. 1946, c. 3, s. 21 (2), *part*; 1948, c. 5, s. 12 (3).

(6) The Board shall have power upon such appeal to decide not only as to the amount at which the property in question shall be assessed, but also all questions as to whether any persons or things are liable to assessment or exempt from assessment under the provisions of this Act.

(7) An appeal shall lie from the decision of the Board under this section to the Court of Appeal upon all questions of law or the construction of a statute, a municipal by-law, any agreement in writing to which the municipality concerned is a party, or any order of the Board.

(8) The practice and procedure on the appeal to the Court of Appeal shall be the same *mutatis mutandis* subject to any rule of court or regulation of the Board as upon an appeal from a county court. R.S.O. 1937, c. 272, s. 84 (5-7).

81.—(1) An appeal shall lie to the Court of Appeal as hereinafter provided from the judgment of the judge on a question of law or the construction of a statute, a municipal by-law, any agreement in writing to which the municipality concerned is a party, or any order of the Ontario Municipal Board (except an order made under section 80).

(2) Any party desiring so to appeal to the Court of Appeal shall on the hearing of the appeal by the judge request the judge to make a note of any such question of law or construction, and to state the same in the form of a special case for the Court of Appeal.

(3) It shall be the duty of the judge to make a note of such request, and he may thereupon state such question in the form

of a special case, setting out the facts in evidence relative thereto, and his decision of the same, as well as his decision of the whole matter.

Transmit-
ting special
case to
Court of
Appeal.

(4) A copy of such special case, signed by the judge, shall be transmitted to the Court of Appeal, and the practice and procedure on the appeal shall be the same *mutatis mutandis* as upon an appeal from a county court.

Direction
by Court of
Appeal to
county judge
to state
special case.

(5) On the application of any party desiring to appeal, and on such notice to the other party and on such evidence as may seem proper to the Court of Appeal, that Court may if it sees fit direct the county judge to state a special case as in subsection 3 if the judge on the hearing before him refused to do so.

Statement of
case not to
affect rolls
being
prepared.

(6) The statement of any such case, or the hearing or argument or other proceeding thereon shall not delay the final revision of the assessment roll or other proceedings thereon; but if by the judgment of the Court of Appeal upon the case stated it appears that any alteration should be made in the assessment roll respecting the assessment in question, the county judge on being certified thereof shall cause the proper entries to be made in the assessment roll to give effect to the judgment.

Statement of
case where
appeal lies
to Ontario
Municipal
Board.

(7) Where an appeal lies from the decision of the judge to the Ontario Municipal Board under section 80 the judge shall not state a case under this section, unless all the parties consent and request him to do so and if a case is so stated an appeal shall not lie to the Ontario Municipal Board under section 80. R.S.O. 1937, c. 272, s. 85.

Assessment
to be open
upon appeal.

82.—(1) Upon an appeal upon any ground against an assessment the judge of the county court or the Ontario Municipal Board hearing an appeal under section 80, or the Court of Appeal, as the case may be, may reopen the whole question of the assessment, so that omissions from, or errors in, the assessment roll may be corrected, and the accurate amount for which the assessment should be made, and the person or persons who should be assessed therefor may be placed upon the roll by such judge, Board or Court, and if necessary the roll of any particular ward or subdivision of the municipality, even if returned as finally revised, may be opened so as to make the same correct in accordance with the findings of such judge, Board or Court. R.S.O. 1937, c. 272, s. 86.

Reference to
similar land.

(2) Such judge, Board or Court may, in determining the value at which any land shall be assessed, have reference to the value at which similar land in the vicinity is assessed. 1940, c. 1, s. 4.

83. It is hereby declared that the court of revision, the county judge, the Ontario Municipal Board, and every court to which and every judge to whom an appeal lies under this Act have jurisdiction to determine not only the amount of any assessment, but also all questions as to whether any persons or things are or were assessable or are or were legally assessed or exempted from assessment. R.S.O. 1937, c. 272, s. 87.

Powers of county judge, court of revision, etc., as to assessment.

84. Where the assessment of any real property is altered on an appeal, any business assessment based on the assessed value of such real property shall be altered in the business assessment roll by the clerk of the municipality to conform with the altered real property assessment, whether or not the business assessment roll has been finally revised. 1948, c. 5, s. 13.

Revision of business assessment roll on alteration of real property assessment.

85.—(1) When, after the appeal provided by this Act, the assessment roll has been finally revised and corrected, the clerk of the municipality shall within ninety days transmit to the county clerk a summarized statement of the contents of the roll showing the total population of the municipality and the total assessment of each of the various classes of property liable to assessment, and when required to do so by the county judge or by resolution of the county council for the purpose of equalization or otherwise shall produce the original assessment roll of the municipality.

Summarized statement of roll to be transmitted to county clerk.

(2) For default in the performance of his duties under this section the clerk of the municipality shall be guilty of an offence and liable to a penalty of not less than \$10 and not more than \$20. R.S.O. 1937, c. 272, s. 88.

Penalty.

EQUALIZATION

86.—(1) Subject to the approval of the Department, the council of every county may appoint a county assessor who, for the purpose of making uniform the methods of preparation of the assessment rolls in the municipalities in the county and for the purpose of ascertaining whether the valuations of real property made by the assessors in each such municipality bear a just relation one to another, shall supervise the assessment and advise the assessors and shall report thereon to the county council before the 1st day of June in every year and such report shall form the basis for equalization under section 87. 1940, c. 1, s. 5, *part*; 1944, c. 7, s. 9 (1); 1948, c. 5, s. 14.

County assessor.

(2) The Minister may, subject to the approval of the Lieutenant-Governor in Council, by regulation prescribe rules

Departmental rules.

for the guidance of county assessors and every county assessor shall conduct himself in accordance therewith. 1944, c. 7, s. 9 (2).

Assessment
complaint.

(3) A county assessor shall have the same right of appeal to a court of revision in any such municipality that a person assessed in the municipality has under subsection 3 of section 69. 1940, c. 1, s. 5, *part*.

Clerk to
notify
county
assessor of
return of
roll.

(4) The clerk of every municipality in a county for which a county assessor has been appointed shall forthwith after the assessment roll has been returned to him by the assessor in any year give notice in writing by registered mail to the county assessor of the date on which such return was made. 1950, c. 3, s. 15 (1).

Complaint
to court of
revision.

(5) Notice of an appeal by a county assessor to the court of revision of any municipality within the county may be given within thirty days after receiving from the clerk notice of the date of the return of the assessment roll of such municipality, and such appeal may be with respect to any particular assessment or omission to assess or generally with respect to all the assessments included in the roll or in any area of the municipality defined in the notice or generally with respect to assessments of land only or buildings only or business included in the roll or in any area of the municipality defined in the notice. 1940, c. 1, s. 5, *part*; 1947, c. 3, s. 20; 1950, c. 3, s. 15 (2).

Appeals
from court
of revision
and county
judge.

(6) A county assessor shall have the same right of appeal from a decision of a court of revision or county judge as a person assessed under this Act.

General
appeal.

(7) No such general appeal shall be commenced without the approval of the Department, and the procedure applicable thereto shall be determined by the court of revision, county judge or the Ontario Municipal Board, as the case may be, and such notice thereof shall be given by publication or otherwise as may be directed by the court, judge or Board, and upon the hearing thereof the court, judge or Board may review any or all of the assessments included in the roll as may be necessary to determine the appeal, may alter and amend the roll and may direct the making of a new roll in accordance with the terms of the order of the court, judge or Board. 1940, c. 1, s. 5, *part*.

Annual
examination
of assess-
ment rolls
by county
councils for
purpose of
equalization.

87.—(1) The council of every county shall yearly, and not later than the 1st day of July, examine the assessment rolls for the preceding year of the different townships, towns and villages in the county, for the purpose of ascertaining whether the valuations of real property made by the assessors in each township, town or village bear a just relation one to another,

and may, by by-law for the purpose of county rates, increase or decrease in any township, town or village, the aggregate valuations, adding or deducting so much per cent as may, in their opinion, be necessary to produce a just relation between them; but they shall not reduce the aggregate valuation for the whole county as made by the assessors. R.S.O. 1937, c. 272, s. 90 (1); 1944, c. 7, s. 10; 1946, c. 3, s. 22.

(2) Within ten days after the equalization by-law has been passed by the county council, the county clerk shall transmit to the reeve and clerk of each municipality a copy thereof. Notice of equalization to municipalities concerned. R.S.O. 1937, c. 272, s. 90 (2).

88. The council of a county may in any year by by-law approved by the Department and passed on or before the 1st day of July extend the time, Extensions of time for equalization proceedings.

(a) for making the report of the county assessor mentioned in subsection 1 of section 86, for such period, not exceeding sixty days after the 1st day of June, as the by-law may provide;

(b) for examining the assessment rolls and passing the equalization by-law mentioned in section 87, for such period, not exceeding sixty days after the 1st day of July, as the by-law may provide;

(c) for disposition of an equalization appeal under section 89, for such period, not exceeding sixty days after the 1st day of January next following, as the by-law may provide. 1949, c. 6, s. 10.

89. If any municipality is dissatisfied with the action of any county council in increasing or decreasing, or refusing to increase or decrease the valuation of any municipality, the proceedings shall be as follows: Appeal as to equalization of assessments.

1. The municipality so dissatisfied may appeal from the decision of the council at any time within twenty days after the passing of such by-law, by giving to the clerk of the county council notice in writing, which notice shall state whether the municipality appealing is willing to have the final equalization of the assessment made by the county judge. Notice of appeal.

2. Every county council, at the same session in which the assessment has been equalized, shall determine whether the said council is willing to have the final equalization of the assessment, in case of appeal, made by the county judge. County council may elect as to county judge acting. R.S.O. 1937, c. 272, s. 91, pars. 1, 2.

Notice to
Minister.

3. Upon receiving notice of appeal, in case any party to the appeal has objected to the final equalization of the assessment being made by the county judge, the clerk of the county council shall forthwith notify the Minister in writing of such objection, giving the name or names of the municipality or municipalities so objecting. R.S.O. 1937, c. 272, s. 91, par. 3; 1950, c. 3, s. 16 (1).

Appoint-
ment of
court by
Order in
Council.

4. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may appoint three persons who shall form a court which shall, at such time and place as the Lieutenant-Governor in Council appoints, proceed to hear and determine the appeal either with or without the evidence of witnesses or with such evidence as they may decide upon hearing, and may examine witnesses under oath or otherwise, and may adjourn from time to time, and the court shall equalize the valuations of real property made by the assessors in each municipality in the county, but shall not reduce the aggregate valuation for the whole county as made by the assessors, and shall forthwith report the same to the county council. 1950, c. 3, s. 16 (2).

Appointment
of Ontario
Municipal
Board in
lieu of a
court.

5. The Lieutenant-Governor in Council in lieu of appointing persons to form a court as provided in paragraph 4 may direct that the appeal be heard and determined by the Ontario Municipal Board, in which case the Board shall hear and determine the appeal as if it were being heard and determined by the county judge. 1949, c. 6, s. 11.

Time for
disposal of
appeal.

6. It shall be the duty of the court to dispose of the appeal before the 1st day of January next after the appeal. R.S.O. 1937, c. 272, s. 91, par. 5.

Remunera-
tion.

7. The county judge or the persons appointed to form a court shall be paid such remuneration and travelling and other expenses as the Lieutenant-Governor in Council may determine to be borne and paid as directed by the county judge or the court, as the case may be.

Other
expenses.

8. The fees of the stenographic reporter, if any, and any other expenses incidental to the hearing of the appeal shall be borne and paid as directed by the county judge or the court, as the case may be. 1946, c. 3, s. 23 (1).

Quorum.

9. Any two members of such court shall constitute a quorum. 1943, c. 2, s. 4 (3).

Equalization
by county
judge.

10. Where all the parties to the appeal have agreed, as above provided, to have the final equalization of the assessment

made by the county judge, the clerk of the county council shall forthwith notify the county judge in writing, and the county judge shall appoint a day for hearing the appeal, not later than ten days from the receipt of such notice of the appeal, and may on such day proceed to hear and determine the appeal, either with or without evidence of witnesses, or with such evidence as he may decide upon hearing, and may examine witnesses under oath or otherwise, and may adjourn from time to time, and the judge shall equalize the valuations of real property made by the assessors in each municipality in the county but shall not reduce the aggregate valuation for the whole county as made by the assessors, and shall forthwith report the same to the county council. R.S.O. 1937, c. 272, s. 91, par. 8; 1944, c. 7, s. 11 (2); 1950, c. 3, s. 16 (3).

11. It shall be the duty of the judge to dispose of the appeal before the 1st day of January next after the appeal. R.S.O. 1937, c. 272, s. 91, par. 9. Time for disposal of appeal.

12. The right of appeal shall exist whether a county assessor has been appointed or not, and upon any such appeal the report of the county assessor shall be open to review by the court or judge as herein provided. R.S.O. 1937, c. 272, s. 91, par. 10; 1944, c. 7, s. 11 (3). Appeal in cases of equalization of assessment.

13. The costs incurred in the prosecution and opposing of such appeal respectively shall be borne and paid as directed by the county judge or court, as the case may be, and not otherwise, and shall be subject to taxation on the county court scale by the clerk of the county court of the county. Costs.

14. An appeal shall lie to the Court of Appeal from any judgment of a judge and from any report made by a court constituted under paragraph 4 on any question of law or the construction of a statute and if the judgment of the Court of Appeal reverses or varies the judgment of such judge or the report of such court, such judgment or report shall be varied so as to conform to the judgment of the Court of Appeal. Appeal.

15. The procedure on such appeal shall be, as nearly as may be, the same as upon an appeal from a county court to the Court of Appeal. R.S.O. 1937, c. 272, s. 91, pars. 11-13. Procedure on appeal.

90. If the clerk of the municipality has neglected to transmit a certified copy of the assessment roll, such neglect shall not prevent the county council from equalizing the valuations in the several municipalities according to the best information obtainable, and any rate imposed, according to the equalized assessment, shall be as valid as if the assessment rolls had been transmitted. R.S.O. 1937, c. 272, s. 92. Effect of clerk of municipality omitting to send copy of roll.

Apportionment of county rates, how to be based.

91. The council of a county, in apportioning a county rate among the different townships, towns and villages within the county, shall, in order that the same may be assessed equally on the whole rateable property of the county, make the assessment of real property as equalized and business assessments in the preceding year the basis upon which the apportionment is made. R.S.O. 1937, c. 272, s. 93; 1944, c. 7, s. 12.

Case of new municipalities.

92.—(1) Where boundaries of existing municipalities are changed, or where a new municipality is erected within a county so that there are no assessment rolls of the new municipality for the next preceding year, the county council shall, by examining the rolls of the former municipality or municipalities of which the new municipality then formed part, ascertain, to the best of their judgment, what part of the assessment of the municipality or municipalities had relation to the new municipality, and what part should continue to be accounted as the assessment of the original municipality, and their several shares of the county tax shall be apportioned between them accordingly. R.S.O. 1937, c. 272, s. 94; 1944, c. 7, s. 13.

Where land separated from county.

(2) Where the council of a county has passed its by-law for equalizing assessments on which the rates for county purposes for the succeeding year are to be based and apportioned, and any municipality in the county, or any part thereof, thereafter ceases to form part of the county for municipal purposes, the council of the county shall amend the equalization by-law by deducting from the equalized assessments shown in the by-law that portion pertaining to the municipality, or part thereof, which has ceased to form part of the county, in order that the rates for county purposes for the said succeeding year may be based and apportioned on the remainder of the equalized assessments. 1950, c. 3, s. 17.

County councils to apportion sums required for county purposes.

93. Where a sum is to be levied for county purposes, or by the county for the purposes of a particular locality, the council of the county shall ascertain, and by by-law direct what portions of such sum shall be levied in each township, town or village in such county or locality. R.S.O. 1937, c. 272, s. 95.

County clerk to certify amounts to clerks of municipalities.

94. The county clerk shall forthwith after the county rates have been apportioned certify to the clerk of each municipality in the county, the total amount which has been so directed to be levied therein for the then current year for county purposes or for the purposes of any such locality, and the clerk of the municipality shall calculate and insert the same in the collector's roll for that year. R.S.O. 1937, c. 272, s. 96.

95. Nothing in this Act shall alter or invalidate any special provisions for the collection of a rate for interest on county debentures, whether such provisions are contained in any Municipal Act now or formerly in force in Ontario, or in any Act respecting The Consolidated Municipal Loan Fund of Ontario, or in any general or special Act authorizing the issue of debentures, or in any by-law of the county council providing for the issue of the same. R.S.O. 1937, c. 272, s. 97.

96.—(1) Notwithstanding anything in this Act or any other special or general Act, the ascertainment, imposition or levy by a county council of any rate for county purposes shall be made and raised upon and from the assessment of real property as equalized and business assessments in the county. R.S.O. 1937, c. 272, s. 98 (1); 1944, c. 7, s. 14; 1947, c. 3, s. 21 (1).

(2) When under this Act or any other special or general Act any rate is directed or required to be levied in a local municipality forming part of a county for county purposes, the same shall in the local municipality be calculated and levied upon and against the whole rateable property including business assessments within such local municipality according to the last revised assessment roll thereof. R.S.O. 1937, c. 272, s. 98 (2); 1947, c. 3, s. 21 (2).

TERRITORIAL DISTRICT ASSESSOR

97.—(1) For the purposes of this section, "locality" means,

(a) an improvement district erected under *The Municipal Act*; and

(b) a public school section (including a township school area and a union school section), or a separate school, or a high school district, in an unorganized township or townships or any part thereof or in unsurveyed territory,

and includes the board of any of them.

(2) The Minister may appoint a district assessor for any territorial district described in *The Territorial Division Act* whenever in any year such an appointment is requested by not less than two-thirds of the municipalities, other than improvement districts, in the territorial district.

(3) The request for the appointment of a district assessor by any municipality shall be by a by-law of the municipality, a certified copy whereof shall be lodged with the Minister.

- Idem. (4) If in any year the number of requests made for the appointment of a district assessor is insufficient, the by-law of any municipality passed in that year requesting that the appointment be made shall expire at the end of that year and cease to have further effect.
- Term of office. (5) Every district assessor appointed under this section shall hold office during pleasure and when from any cause his office becomes vacant the Minister may appoint his successor.
- Salary. (6) The salary of each district assessor shall be such as may from time to time be fixed by the Minister.
- Provision of equipment, etc. (7) With the approval of the Minister, a district assessor for the performance of the duties of his office may from time to time,
- (a) provide suitably furnished office premises for himself and his staff, if any, at a convenient place in the territorial district for which he is appointed;
 - (b) provide such mechanical and other office equipment, stationery and other office supplies as are necessary and sufficient for the purposes of his office;
 - (c) appoint, engage the services and fix the salaries or wages of such assistant assessors, clerks and other employees, temporary or permanent, as are necessary and sufficient for the purposes of his office;
 - (d) incur and pay such travelling and other costs, charges and expenses as are necessary for or ordinarily incidental to the purposes of his office.
- Powers and duties. (8) The district assessor appointed for a territorial district shall supervise the yearly assessment to be made in every municipality and locality therein and advise the local assessors thereon in order that in the preparation of the yearly assessment rolls uniform practices will be followed and that in making the yearly assessments the valuations and amounts thereof are determined in accordance with this Act and thereby ensure that the yearly assessments in every municipality and locality bear a just relation one to another.
- Report to Minister. (9) The district assessor, not later than the 31st day of January in each year, shall make a written report to the Minister and to the clerk of every municipality and the secretary of the board of every locality upon the matters to

which subsection 8 applies in relation to the preceding year and in such report he shall make particular reference to any municipality or locality in the territorial district in which any material or substantial non-compliance with the requirements of this Act occurred during the preceding year.

(10) The district assessor shall have the same rights with ^{Rights of appeal.} respect to appeals as to assessments as a county assessor has under section 86 and the provisions of that section in relation thereto shall, *mutatis mutandis*, apply and be followed.

(11) The total annual cost incurred for the salaries and ^{Payment of costs.} wages of a district assessor and his staff, if any, and for all other expenses and disbursements in connection with his office as authorized by this section shall be chargeable to and be provided and paid by the municipalities and localities in the territorial district, and the amount of their respective shares shall be in the proportion that the rateable assessment of each of them bears to the total of the rateable assessments of all of them, according to their last revised assessment rolls.

(12) The district assessor shall in December of each year ^{Budget.} prepare the budget of the estimated cost of his office for the ensuing year and of the proportion thereof chargeable to each municipality and locality and shall deliver a copy of the budget to each municipality and locality not later than the 15th day of that month.

(13) Any municipality or locality not satisfied with the ^{Appeal.} budget or its proportion thereof may, within ten days of receipt thereof, appeal to the Minister whose decision on such appeal shall be final and binding and any correction in the budget or in the proportions chargeable to the municipalities and localities shall be made as the Minister may direct in writing.

(14) Every municipality and locality shall in each year ^{Payments to assessor.} remit to the district assessor, by equal quarterly payments in advance, its proportion of the cost for that year as shown in the budget, or as shown in the budget as corrected according to the decision of the Minister upon an appeal, and such quarterly payments shall be made on the 15th day of January, April, July and October in each year, and if any such quarterly payment is not made on due date it shall bear interest at the rate of six per cent per annum until paid.

(15) The district assessor shall keep proper books of account ^{Audit.} with respect to his office and the books shall be audited annually by the auditor of the municipality having the largest

rateable assessment in the territorial district and the cost of the audit shall be deemed to be an expense of the office of the district assessor and be included in his annual budget.

Copy of
audit to
be delivered.

(16) A copy of the auditor's report for each year shall be mailed by the auditor to each municipality and locality in the territorial district, and if a deficit occurred with respect to that year the amount thereof shall be included in the next budget, and if a surplus resulted for that year the amount thereof shall be shown in the next budget and shall serve to reduce the amount required to be provided by the municipalities and localities. 1950, c. 3, s. 18.

COLLECTION OF TAXES

Who liable
for taxes.

98. The taxes due upon any land with costs may be recovered with interest as a debt due to the municipality from the owner or tenant originally assessed therefor and from any subsequent owner of the whole or any part thereof, saving his recourse against any other person, and shall be a special lien on the land in priority to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and its priority shall not be lost or impaired by any neglect, omission or error of the municipality or of any agent or officer, or by want of registration. R.S.O. 1937, c. 272, s. 99.

Recovery
of taxes
by action.

99.—(1) The taxes payable by any person may be recovered with interest and costs as a debt due to the municipality, in which case the production of a copy of so much of the collector's roll as relates to the taxes payable by such person, purporting to be certified as a true copy by the clerk of the municipality, shall be *prima facie* evidence of the debt.

Recovery in
division
court.

(2) Where the amount claimed does not exceed \$200, an action to recover the amount may be brought in a division court. R.S.O. 1937, c. 272, s. 100 (1, 2).

Liability for
taxes on
business in
case of
death or
change of
residence.

Rev. Stat.,
c. 243.

(3) Notwithstanding any provision of *The Municipal Act* and subject to the provisions of section 124, every person assessed in respect of business upon any assessment roll which has been revised by the court of revision or county judge shall be liable for any rates which may be levied upon such assessment roll notwithstanding the death or removal from the municipality of the person assessed and notwithstanding that such rates are not levied until the year following that in which the assessment roll was revised. R.S.O. 1937, c. 272, s. 100 (3); 1947, c. 3, s. 22 (1).

Paying rent
to collector
or treasurer
until taxes
paid.

100. Where taxes are due upon any land occupied by a tenant, the collector or, after the roll has been returned, the treasurer may give the tenant notice in writing requiring

him to pay such collector or treasurer the rent of the premises as it becomes due from time to time to the amount of the taxes due and unpaid and costs, and the collector or treasurer shall have the same authority as the landlord of the premises would have to collect the rent by distress or otherwise to the amount of the unpaid taxes and costs; but nothing in this section shall prevent or impair any other remedy for the recovery of the taxes or any portion thereof from the tenant or from any other person liable therefor. R.S.O. 1937, c. 272, s. 101.

101. Any tenant may deduct from his rent any taxes paid by him which as between him and his landlord the latter ought to pay. R.S.O. 1937, c. 272, s. 102. When tenant may deduct taxes from rent.

102. All moneys assessed, levied, and collected under any Act by which the same are made payable to the Treasurer of Ontario, or other public officer for the public uses of Ontario, or for any special purpose or use mentioned in the Act, shall be assessed, levied and collected in the same manner as local rates, and shall be similarly calculated upon the assessments as finally revised, and shall be entered in the collector's rolls in separate columns, in the heading whereof shall be designated the purpose of the rate. R.S.O. 1937, c. 272, s. 103. Provincial taxes.

COLLECTOR'S ROLLS

103.—(1) The clerk of every municipality shall make a collector's roll or rolls, as may be necessary, containing columns for all information required by this or any other Act to be entered by the collector therein, and in such roll or rolls he shall set down the name in full of every person assessed, and in the proper columns in that behalf the amount for which he is assessed in respect of his real property and otherwise under this Act as ascertained after the final revision of the assessment roll, and he shall calculate and, opposite the assessed value, he shall set down in one column to be headed "*County Rates*" the amount for which the person is chargeable for any sums ordered to be levied by the council of the county for county purposes, and in another column to be headed "*General Rate*" the amount with which the person is chargeable in respect of sums ordered to be levied by the council of the municipality for the purposes thereof, and including any special rate for collecting the principal or interest for the payment of debentures issued, and in other columns any local improvement rate or school rate or other special rate, or sums for the commutation of statute labour or any sum which is required by any other Act to be placed on the collector's roll the proceeds of which are required by law or by the by-law Clerks of municipalities to make out collector's rolls; their form, contents, etc.

imposing it to be kept distinct and accounted for separately, and every such last-mentioned rate shall be calculated separately and the column therefor shall be headed "*Special Rate*", "*Local Improvement Rate*", "*Public School Rate*", "*Separate School Rate*" or "*Special Rate for School Debts*", or as the case may be. R.S.O. 1937, c. 272, s. 104 (1); 1948, c. 5, s. 15 (1).

Preparation
of collector's
roll.

Rev. Stat.,
cc. 316, 356.

(2) Notwithstanding anything in subsection 1 or in *The Public Schools Act* or *The Separate Schools Act*, the council of any municipality may by by-law provide that the clerk shall set down the name in full of every person assessed and the assessed value of his real property and taxable business, as ascertained after the final revision of the assessment roll, and opposite such assessed value he shall set down in a column for that purpose the total amount for which the person is chargeable for all sums ordered to be levied by the said council or school boards for the purposes thereof. R.S.O. 1937, c. 272, s. 104 (2); 1939, c. 3, s. 6 (1); 1948, c. 5, s. 15 (2).

Collector's
roll,
mechanical
methods.

(3) The form of the collector's roll may be varied to facilitate the use of,

- (a) mechanical methods in the preparation of the roll;
- (b) mechanical methods of accounting and bookkeeping and where the latter methods are used the treasurer may exercise the powers and perform the duties of the collector and the clerk in respect of the roll. 1941, c. 5, s. 4.

Information
to be given
in tables
appended
to rolls.

(4) Appended to every roll made up under subsection 2 there shall also be a table setting forth,

- (a) the total amount of taxes to be collected under and by virtue of such roll or rolls;
- (b) the name and amount of each rate levied by the municipality which is required by law or by the by-law imposing it to be kept distinct and accounted for separately and specifying the aggregate proceeds of each rate;
- (c) in the case of townships, the name and amount of each rate levied by the municipality for each school section,

and the clerk shall, before delivering the roll to the collector, furnish to the treasurer of the municipality a copy of the table.

(5) Where the council of a township exercises the power ^{Tax bill, use of} set forth in subsection 2, a separate form of demand for taxes ^{separate.} or tax bill may be provided for each school section whereon shall be written, printed or endorsed a table setting forth the particulars of each rate levied in the school section. R.S.O. 1937, c. 272, s. 104 (4, 5).

(6) Notwithstanding anything in this or any other Act, ^{Certain names to be omitted from collector's roll.} the council of any local municipality may by by-law provide that the clerk shall not enter on any collector's roll the name of any tenant or lessee unless such tenant or lessee is required by the terms of his lease to pay the taxes or where the owner is not liable to pay the taxes. 1939, c. 3, s. 6 (2); 1948, c. 5, s. 15 (3).

104.—(1) The council of any municipality may by by-law ^{Minimum tax.} provide that where the sum of the taxes for which any person is chargeable in any year for municipal, school, local improvement and other purposes, upon any real property assessed in one parcel to the same owner would according to the assessment thereon be less than \$3, the sum of such taxes shall be deemed to be \$3 and shall be so entered on the collector's roll, and the difference between the sum that would have been entered but for this section and the sum of \$3 shall form part of the general funds of the municipality.

(2) Where immediately prior to the passing of a by-law ^{Existing combined assessments to be continued.} by any municipality under subsection 1, lots therein owned by the same person were assessed together under clause f of subsection 1 of section 16, such lots shall continue to be so assessed as long as they all remain the property of that person, provided that nothing in this subsection shall be deemed to apply to the amount at which such lots may be assessed.

(3) Where at any time after the passing of a by-law ^{Requirement for combined assessment.} by any municipality under subsection 1, lots therein which adjoin any another are shown on the same registered plan and are owned by the same person, he may by notice in writing to the assessor require that such lots shall thereafter be assessed as one parcel and at one total amount of assessment during such time as he continues to be the owner. 1950, c. 3, s. 19.

105. The clerk shall attach to the roll a certificate signed ^{Collector's roll to be certified by clerk.} by him according to the following form:

I do certify that the within (or annexed, or attached, or as the case may be) Roll is the Collector's Roll prepared according to the provisions of *The Assessment Act* for (naming the municipality, or for Ward No. of, as the case may be) for the year 19.....

A.B.

Clerk of.....

and shall deliver the roll so certified to the collector on or before the 1st day of October, or such other date as may be prescribed by by-law of the municipality. R.S.O. 1937, c. 272, s. 105.

Roll of non-residents in township.

106.—(1) The clerk of every township shall also make out a roll in which he shall enter the lands of non-residents assessed as provided in clause *j* of subsection 1 of section 16, together with the value of every lot, part of lot, or parcel, as ascertained after the revision of the roll, and he shall enter, opposite to each lot or parcel, all the rates or taxes with which the same is chargeable, in the same manner as is provided for the entry of rates and taxes upon the collector's roll, and he shall, on or before the 1st day of November, transmit the roll so made out, certified under his hand, to the treasurer of the county.

Exception.

(2) This section shall not apply to the Townships of York, Scarborough, and Etobicoke. R.S.O. 1937, c. 272, s. 106.

Correction of roll to carry out changes in assessment.

107. If corrections are made in the assessment roll, under subsection 20 of section 69 or under section 82, after the collector's roll or rolls for the municipality for the year for which such assessment has been made have been prepared, the clerk of the municipality shall alter or amend the collector's roll or rolls to correspond with the changes made by the court of revision, judge, board or Court under the said sections, and by inserting the proper rates therefor, and the rates or taxes shall be collectable in accordance with such corrected rolls in the same manner and with the like remedies as if the same had been in the rolls when first prepared and certified by the clerk of the municipality. R.S.O. 1937, c. 272, s. 107.

COLLECTORS AND THEIR DUTIES

Duties of collectors.

108. The collector, upon receiving his roll, shall proceed to collect the taxes therein mentioned. R.S.O. 1937, c. 272, s. 108.

Demand or notice of taxes by collector.

109.—(1) In cities, towns, villages and townships the collector shall call at least once on the person taxed, at his usual residence or place of business if within the municipality in and for which he has been appointed, and shall demand payment of the taxes; or he shall give to such person a written or printed notice specifying the amount of the taxes payable by him, by delivering the notice, or causing it to be delivered to him, or for him at his residence or place of business, or upon the premises in respect of which the taxes are payable.

How may be given.

(2) In cities, towns, villages and townships, the collector, clerk or treasurer may, if so authorized by by-law of the municipality (which by-law the council of the municipality is hereby

empowered to pass), mail the notice or cause it to be mailed to the address of the residence or place of business of such person.

(3) The written or printed notice above-mentioned shall have written or printed thereon a schedule specifying the different rates and the amount on the dollar to be levied for each rate, making up the aggregate of the taxes referred to in the notice, and also containing the information required to be entered in the collector's roll under section 103. R.S.O. 1937, c. 272, s. 109.

Particulars
to be given
in tax
notice.

110.—(1) The collector shall at the time of such demand or notice, as the case may be, or immediately thereafter, enter or cause to be entered on his roll opposite the name of the person taxed, the date of such demand or of the delivery or mailing of the notice.

Entry of
date of
giving
notice.

(2) Every person so entering any such date shall append his initials thereto, and the entry shall be *prima facie* evidence of such demand or notice. R.S.O. 1937, c. 272, s. 110.

Initials to
entries.

111. If any person whose name appears on the roll is not resident within the municipality, the collector shall transmit to him by post, addressed in accordance with the notice given by such non-resident, if notice has been given, a statement and demand of the taxes charged against him in the roll, and shall at the time of such transmission enter or cause to be entered the date thereof in the roll opposite the name of such person, and the entry shall be *prima facie* evidence of the transmission and of the time thereof, and the statement and demand shall contain, written or printed on some part thereof, the name and post office address of the collector. R.S.O. 1937, c. 272, s. 111.

Proceedings
in case of
non-
residents.

112. If any person assessed, whether resident or non-resident, furnishes the assessment commissioner, or if none, the clerk, with a notice in writing giving an address to which the notice of taxes may be transmitted to him, and requesting that the notice be transmitted to such address by registered letter, the commissioner or clerk shall enter the words "to be registered" on the roll opposite the name of the person and the notice shall be so transmitted by the collector, who shall add to the taxes the cost of registration, to be paid by such person as part of his taxes, and any such notice so given to the commissioner or clerk shall stand until revoked in writing. R.S.O. 1937, c. 272, s. 112.

Notice of
address to
which tax
bills to be
sent.

BY-LAWS AS TO MODE OF PAYMENT OF TAXES

By-laws requiring taxes to be paid into office of treasurer or collector.

Payments by instalments.

Crown property.

Penalty for non-payment of taxes.

Discount for payment in advance.

113.—(1) In cities, towns, villages and townships, the council may by by-law require the payment of taxes, including local improvement assessments, sewer rents and rates, and of other rents or rates payable as taxes, to be made into the office of the treasurer or collector by any day or days to be named therein, in bulk or by instalments, and may provide that on the punctual payment of any instalment the time for payment of the remaining instalment or instalments shall be extended to a day or days to be named, or may provide that in default of payment of any instalment by the day named for payment thereof, the subsequent instalment or instalments shall forthwith become payable. R.S.O. 1937, c. 272, s. 113 (1).

(2) A by-law under subsection 1 may contain provisions with respect to the payment of taxes by tenants of lands owned by the Crown or in which the Crown has an interest, in which case the by-law shall provide that where any such tenant has been employed either within or outside the municipality by the same employer for not less than thirty days, such employer shall pay over to the treasurer or collector on demand out of any wages, salary or other remuneration due to such employee, the amount then payable for taxes under the by-law and such payment shall relieve the employer from any liability to the employee for the amount so paid. 1943, c. 2, s. 5.

(3) The council may by by-law impose a percentage charge as a penalty for non-payment of taxes or any class or instalment thereof not exceeding one-half of one per cent on the first day of default and on the first day of each period of not less than thirty days thereafter in which default continues, but not after the end of the year in which the taxes are levied. 1946, c. 3, s. 24 (1).

(4) The council may by by-law authorize the treasurer or collector to receive in any year payments on account of taxes for that year in advance of the day that may be fixed by by-law for the payment of any instalment of such taxes and to allow a discount on any taxes so paid in advance not exceeding one-half of one per cent for payment within the period of not less than thirty days prior to the day fixed for payment and similar discounts for additional similar periods prior thereto, notwithstanding that the taxes for such year have not been levied, or that the assessment roll on which such taxes are to be fixed and levied has not been adopted by the council, when any such advance payment is made. 1946, c. 3, s. 24 (3); 1947, c. 3, s. 23.

(5) If a by-law is passed providing for payment by instalments or allowing any such discount or imposing any such additional percentage charge, a notice shall be given in accordance with section 109 on which shall be written or printed a concise statement of the time and manner of payment and of the discount allowed or the percentage charge imposed, if any, and at any time within fourteen days after such notice has first been given, in accordance with section 109, any person may take advantage of the provisions of such by-law as to payment by instalments or with the discount allowed thereby, or without the additional percentage charge imposed thereby, as the case may be.

Notice as to time and mode of payment.

(6) Where, in accordance with this section, a percentage is added to unpaid taxes, the by-laws shall not be repealed before the return of the collector's roll.

By-law to be in force till return of collector's roll.

(7) The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other accounts as may be mentioned in the by-law shall be paid by the collector of taxes or by the person charged with the payment thereof into such chartered bank of Canada as the council shall by such by-law direct, to the credit of the treasurer of the municipality, and in such case the person making the payment shall obtain a receipt from the bank therefor, and the treasurer or collector of taxes shall make the proper entries therefor in the books of the municipality.

Provision for payment of taxes into bank.

(8) The council of any municipality may by by-law authorize the treasurer and the collector of taxes to accept part payment from time to time on account of any taxes due and to give a receipt for such part payment, provided that acceptance of any such part payment shall not affect the collection of any percentage charge imposed and collectable under subsection 3 in respect to non-payment of any taxes or any class of taxes or of any instalment thereof. R.S.O. 1937, c. 272, s. 113 (5-8).

By-law to authorize part payment of taxes due.

(9) Where the treasurer or the collector of taxes receives part payment on account of taxes due for any year, he shall credit such part payment first on account of the interest and percentage charges, if any, added to such taxes. 1939, c. 3, s. 7.

Disposition of part payment of taxes.

(10) The council of any municipality may by by-law divide the municipality into separate areas for the purposes of this Act, and in any by-law providing for the payment of taxes by instalments may for every such area name a different

Payment of instalments in areas.

day within a fixed period of time for the payment of any instalment. 1941, c. 5, s. 5; 1942, c. 34, s. 3 (1).

DISTRESS FOR RECOVERY OF TAXES

Distress and sale for taxes which are a charge on land.

114.—(1) Subject to section 113, if taxes which are a lien on land remain unpaid for fourteen days after demand or notice made or given pursuant to section 109, 111 or 113, the collector, or where there is no collector, the treasurer, may by himself or his agent (subject to the exemptions and provisoes hereafter mentioned in this section), levy the same with costs by distress,

- (a) upon the goods and chattels, wherever found within the county in which the municipality lies, belonging to or in the possession of the owner or tenant of the land whose name appears upon the collector's roll (who is hereinafter called "the person taxed");
- (b) upon the interest of the person taxed in any goods on the land, including his interest in any goods to the possession of which he is entitled under a contract for purchase or a contract by which he may or is to become the owner thereof upon performance of any condition;
- (c) upon the goods and chattels of the owner of the land found thereon, though his name does not appear upon the roll;
- (d) upon any goods and chattels on the land, where title to such goods and chattels is claimed in any of the following ways:
 - (i) by virtue of an execution against the person taxed or against the owner, though his name does not appear on the roll,
 - (ii) by purchase, gift, transfer or assignment from the person taxed, or from such owner, whether absolute or in trust, or by way of mortgage, or otherwise,
 - (iii) by the wife, husband, daughter, son, daughter-in-law or son-in-law of the person taxed, or of such owner, or by any relative of his, in case such relative lives on the land as a member of the family,

- (iv) by virtue of any assignment or transfer made for the purpose of defeating distress;

provided that where the person taxed or such owner is not in possession, goods and chattels on the land not belonging to the person taxed or to such owner shall not be subject to seizure, and the possession by the tenant of the said goods and chattels on the premises shall be sufficient *prima facie* evidence that they belong to him; provided also that no distress shall be made upon the goods and chattels of a tenant for any taxes not originally assessed against him as such tenant; provided also that in cities and towns no distress for taxes in respect of vacant land shall be made upon goods or chattels of the owner except upon the land. R.S.O. 1937, c. 272, s. 114 (1); 1946, c. 3, s. 25.

(2) Subject to section 113, in case of taxes which are not a ^{Distress for taxes not a} lien on land remaining unpaid for fourteen days after demand ^{lien on land.} or notice made or given pursuant to section 109, 111 or 113, the collector, or where there is no collector, the treasurer, may by himself or his agent (subject to the exemptions provided for in subsection 4) levy the same with costs by distress,

- (a) upon the goods and chattels of the person taxed wherever found within the county in which the municipality lies for judicial purposes;
- (b) upon the interest of the person taxed in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition;
- (c) upon any goods and chattels in the possession of the person taxed where title to the same is claimed in any of the ways defined by subclauses i to iv of clause d of subsection 1, and in applying the said subclauses they shall be read with the words "or against the owner though his name does not appear on the roll" and the words "or such owner" and the words "on the land" omitted therefrom;
- (d) upon goods and chattels which at the time of making the assessment were the property and on the premises of the person taxed in respect of business assessment and at the time for collection of taxes are still on the same premises, notwithstanding that such goods and chattels are no longer the property of the person taxed.

Case of
goods in
possession
of ware-
houseman,
assignee or
liquidator.

(3) Notwithstanding anything in subsections 1 and 2, no goods which are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the same or of selling the same upon commission or as agent shall be levied upon or sold for such taxes, and provided further that goods in the hands of an assignee for the benefit of creditors or in the hands of a liquidator under a winding-up order shall be liable only for the taxes of the assignor or of the company which is being wound up, and for the taxes upon the premises in which the goods were at the time of the assignment or winding-up order, and thereafter while the assignee or liquidator occupies the premises or while the goods remain thereon.

Goods
exempt from
distress.

(4) The goods and chattels exempt by law from seizure under execution shall not be liable to seizure by distress.

Exemption
to be
claimed.

(5) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption.

Levy of
taxes under
warrant.

(6) If at any time after demand has been made or notice given pursuant to section 109, 111 or 113, and before the expiry of the time for payment of the taxes, the collector, or, where there is no collector, the treasurer has good reason to believe that any person in whose hands goods and chattels are subject to distress under the preceding provisions, is about to remove such goods and chattels out of the municipality before such time has expired, and makes affidavit to that effect before the mayor or reeve of the municipality or before any justice of the peace, the mayor, reeve or justice shall issue a warrant to the collector or treasurer, authorizing him to levy for the taxes and costs, in the manner provided by this Act although the time for payment thereof may not have expired, and the collector or treasurer may levy accordingly.

City.

(7) A city shall for the purposes of this section be deemed to be within the county of which it forms judicially a part.

Costs.

Rev. Stat.,
c. 106.

(8) The costs chargeable in respect of any such distress and levy shall be those payable to bailiffs under *The Division Courts Act*.

Prohibition.

(9) No person shall make any charge for anything in connection with any such distress or levy unless such thing has been actually done.

Penalty.

(10) In case any person offends against the provisions of subsection 9 or levies any greater sum for costs than is auth-

orized by subsection 8, the like proceedings may be taken against him by the person aggrieved as may be taken by the party aggrieved in the cases provided for by sections 3 to 5 of *The Costs of Distress Act*.

Rev. Stat.,
c. 73.

(11) Where personal property liable to seizure for taxes as hereinbefore provided is under seizure or attachment or has been seized by the sheriff or by a bailiff of any court or is claimed by or in possession of any assignee for the benefit of creditors or liquidator or of any trustee or authorized trustee in bankruptcy or where such property has been converted into cash and is undistributed, it shall be sufficient for the tax collector to give to the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy, notice of the amount due for taxes, and in such case the sheriff, bailiff, assignee or liquidator or trustee or authorized trustee in bankruptcy shall pay the amount to the collector in preference and priority to any other and all other fees, charges, liens or claims whatsoever.

Notice of
taxes where
goods under
seizure.

(12) Where the person making any such distress and levy is a salaried employee of the municipal corporation, the costs in respect to such distress and levy shall belong to the corporation. R.S.O. 1937, c. 272, s. 114 (2-12).

Costs of
distress,
when to
belong to
corporation.

115. No defect, error or omission in the form or substance of the notice required by section 109, 111 or 113 shall invalidate any subsequent proceedings for the recovery of the taxes. R.S.O. 1937, c. 272, s. 115.

Informal-
ties not to
invalidate
subsequent
proceedings.

116. The collector or his agent, by advertisement posted up in at least three public places in the municipality or where there are wards in the ward wherein the sale of goods and chattels distrained is to be made, shall give at least six days notice of the time and place of the sale, and of the name of the person whose property is to be sold, and, at the time named in the notice, the collector or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to realize the amount of the taxes and costs. 1946, c. 3, s. 26.

Public notice
of sale.

117. If the property distrained has been sold for more than the amount of the taxes and costs, and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus, such surplus shall be returned to the person in whose possession the property was when the distress was made. R.S.O. 1937, c. 272, s. 117.

Surplus, if
unclaimed,
to be paid
to party in
whose
possession
the goods
were;

or to
admitted
claimant.

118. If such claim is made by the person for whose taxes the property was distrained, and the claim is admitted, the surplus shall be paid to the claimant. R.S.O. 1937, c. 272, s. 118.

When the
right to such
surplus
contested.

119. If the claim is contested, such surplus shall be paid by the collector to the treasurer of the municipality, who shall retain the same until the respective rights of the parties have been determined by action or otherwise. R.S.O. 1937, c. 272, s. 119.

Dates for
return of
collector's
roll.

120.—(1) Subject to subsections 2 and 3, every collector shall return his roll to the treasurer on or before the 14th day of December in each year, or on such day in the next year not later than the 1st day of February, or in the case of the Township of Pelee, not later than the 1st of June, as the council of the municipality may appoint. R.S.O. 1937, c. 272, s. 120 (1).

In towns
and villages.

(2) In towns and villages every collector shall return his roll to the treasurer on or before the 30th day of April in the second year following the completion of the assessment roll, or such earlier date in that year as the council may appoint. R.S.O. 1937, c. 272, s. 120 (2), *amended*.

In cities.

(3) The council of every city may by by-law fix the times for the return of the collector's rolls, and may make any enlargements of the time so fixed. R.S.O. 1937, c. 272, s. 120 (3).

Collectors'
interim
returns in
cities, towns
and villages.

(4) The collector of every city, town and village shall, until the final return of the roll, pay over to the treasurer of the city, town or village the amount of his collections once every week or more often if the council by by-law so requires.

Collectors'
interim
returns in
townships.

(5) The collector of every township shall, until the final return of the roll, pay over to the treasurer of the township the amount of his collections once every two weeks or more often if the council by by-law so requires. 1949, c. 6, s. 12.

Audit of
collector's
roll.

(6) Every collector, on the request of the treasurer, shall deliver his roll, together with an account of all collections made, to the treasurer to be audited. 1948, c. 5, s. 16.

Oath of
collector on
returning
roll.

121.—(1) At or before the return of his roll, every collector shall make oath in writing that the date of every demand of payment or notice of taxes required by sections 109 to 113, and every transmission of statement and demand of taxes required by section 111 entered by him in the roll, has been truly stated therein.

(2) Every other person who has delivered or mailed a notice ^{Idem.} pursuant to section 109, 111 or 113 shall in like manner at or before the return of the roll make oath that the date of the delivery or mailing of every such notice by him has been truly stated in the roll.

(3) Every such oath may be according to Form 6 and ^{Form of oath, etc.} shall be written on or attached to the roll and may be taken before the treasurer or before any of the persons mentioned in section 230. R.S.O. 1937, c. 272, s. 121.

122.—(1) If the collector fails or omits to collect the taxes ^{Failure of collector to collect.} or any portion thereof by the day appointed or to be appointed as mentioned in section 120, the council may, by resolution, authorize the collector, or some other person in his stead, to continue the levy and collection of the unpaid taxes in the manner and with powers provided by law for the general levy and collection of taxes.

(2) No such resolution or authority shall alter or affect the ^{Duty as to return not affected.} duty of the collector to return his roll, nor shall, in any manner whatsoever, invalidate or otherwise affect the liability of the collector or his sureties. R.S.O. 1937, c. 272, s. 122.

123.—(1) Notwithstanding the provisions of this Act, the ^{Business assessment roll.} council of any municipality may by by-law provide for taking the assessment of business separately from the time for taking the assessment of real property, and for taking the same during such time of the year in which the rates of taxation thereon are to be levied as the by-law may provide. R.S.O. 1937, c. 272, s. 124 (1).

(2) Any such by-law shall provide for the time when the ^{Procedure.} roll for such business assessment shall be returned, for the holding of a court of revision for hearing appeals from any assessment therein in the manner provided by this Act upon the return of such assessment roll to the clerk, and the time for appeal to the court of revision shall be within ten days after the last day fixed for return of the said roll and the time for appealing from the court of revision to the county judge shall be within ten days after the decision of the court of revision is given. R.S.O. 1937, c. 272, s. 124 (2); 1947, c. 3, s. 25.

(3) In any municipality in which a by-law passed under ^{Business assessment by wards, etc.} subsection 3 of section 53 is in force, the council may also provide in the by-law passed under this section that the business assessment may be taken by wards, divisions of wards or groups of polling subdivisions, as the case may be,

and in the by-law shall provide for the time when the roll shall be returned and the court of revision held for each ward, division or group. 1950, c. 3, s. 20.

Inclusion of
business
assessment
with revised
assessment
roll.

(4) The assessment of business so made and completed in any year, whether or not it is completed by the time provided by the by-law, shall upon its final revision, be the assessment of business on which the rates of taxation upon business for such year shall be levied by the council and the assessment roll thereof with the assessment roll of real property and other assessments made for the same year shall when both thereof are finally revised together form the last revised assessment roll of the whole rateable property within the municipality within the meaning and for the purposes of this Act, *The Municipal Act* and any other general or special Act. R.S.O. 1937, c. 272, s. 124 (3).

Rev. Stat.,
c. 243.

Where
council may
estimate
amount of
business
assessment.

(5) Where the assessment of business is made and levied upon in the same year, it shall not be necessary for the council to levy rates on the whole rateable property according to the last revised assessment roll, but may levy the rates before the completion of the separate roll of business assessment and for the purpose of fixing the rates, may estimate the amount of business assessment that will be entered on such separate roll, in which case a notice of business assessment need not be delivered, but upon delivery of the tax bill all the rights of appeal provided in the case of assessments shall apply to the business assessment upon which the taxes mentioned in the tax bill were levied and any person assessed for business under this subsection shall be liable for the taxes levied in respect thereof. 1946, c. 3, s. 27.

Time for
payment of
business tax.

(6) The said council may provide that taxation upon business assessment may be made payable at times different from those at which other taxation is made payable. R.S.O. 1937, c. 272, s. 124 (4).

Abatement
or refund.

124.—(1) An application to the court of revision for the abatement or refund of taxes levied in the year in respect of which the application is made may be made by any person,

- (a) in respect of land which was vacant three months or more in the year; or
- (b) in respect of a building which was razed by fire, demolition or otherwise in the year for the proportionate part of the taxes levied on the building assessment for the part of the year remaining after the building was razed; or

- (c) who is unable to pay taxes because of sickness or extreme poverty; or
- (d) who is overcharged by reason of any gross or manifest error; or
- (e) liable for business tax, who has not carried on such business for the whole year; or
- (f) in respect of land which has become exempt from taxation during the year, for a proportionate part of the taxes based on the number of months in that year during which the exemption applied,

and the court of revision may reject the application or cancel or reduce the taxes or order a refund of the taxes or any part thereof. 1944, c. 7, s. 15 (1), *part*; 1950, c. 3, s. 21.

(2) The application may be made at any time during the year and until the 31st day of March in the following year and notice in writing of the application shall be given to the clerk of the municipality or the assessment commissioner, if any. 1944, c. 7, s. 15 (1), *part*; 1948, c. 5, s. 17.

(3) An appeal may be had to the county judge by the applicant or the municipality from the decision of the court of revision or where the court of revision has omitted, neglected or refused to hear or decide any appeal under this section and such appeal shall be a hearing *de novo*.

(4) The amount of the abatement or refund of taxes under this section shall be subject to such restrictions and limitations and be applicable only to such classes of properties as are prescribed by the Department.

(5) Where a person makes application for the abatement or refund of taxes in respect of a business assessment, the court of revision, on notice to any person who occupied the premises and carried on business for the whole or any part of the period in respect of which the application is made, may direct that a proper proportion of the taxes be levied against such person for the time during which such person was in occupation, although the name of such person does not appear on the assessment roll in respect of such premises, and in determining the amount payable, regard shall be had to the nature of the business carried on. 1944, c. 7, s. 15 (1), *part*.

125.—(1) If any of the taxes mentioned in the collector's roll remain unpaid, and the collector is not able to collect the same, he shall deliver to the treasurer of his municipality and

Time for making application.

Appeal.

Restrictions, limitations, etc.

Occupant may be required to pay part of taxes.

Proceedings when taxes are unpaid, and cannot be collected.

account of all the taxes on the roll remaining unpaid, and, in such account, the collector shall show, opposite to each assessment, the reason why he could not collect the same, by inserting in each case the words "*Non-resident*" or "*Not sufficient property to distrain*", or "*Instructed by Council not to collect*", or "*Instructed by Council to return not collected*", or as the case may be.

Duplicate of
account for
clerk.

(2) Subject to subsection 3, the collector shall at the same time furnish the clerk of the municipality with a duplicate of such account, and the clerk shall, upon receiving the same, mail a notice to each person appearing on the roll with respect to whose land any taxes appear to be in arrear for that year.

In cities.

(3) In cities the treasurer shall give the notice hereinbefore directed to be given by the clerk. R.S.O. 1937, c. 272, s. 126.

Verification
notice.

(4) When the auditor gives a verification notice to each person mentioned in subsection 2, the clerk or treasurer shall not be obliged to comply with subsection 2 or 3, as the case may be. 1947, c. 3, s. 26.

ARREARS OF TAXES ACCRUED ON LAND

Statement
to be
furnished
to county
treasurer.

126.—(1) In cases in which the county treasurer is required to collect arrears of taxes of a township or village, the treasurer of the township or village, as the case may be, shall within fourteen days after the time appointed for the return and final settlement of the collector's roll and before the 8th day of April in every year, furnish the county treasurer with a statement of all unpaid taxes and school rates directed in the said collector's roll or by school trustees to be collected. 1947, c. 3, s. 28; 1948, c. 5, s. 18.

Contents of
statement.

(2) Such statement shall contain a description of the lots or parcels of land, a statement of unpaid arrears of taxes, if any, and of arrears of taxes paid, on lands of non-residents which have become occupied, as required by section 132, and the county treasurer shall not be bound to receive any such statement after the 8th day of April in each year.

Other
information.

(3) The treasurer in such statement and both he and all other officers of the municipality shall from time to time furnish to the county treasurer such other information as the county treasurer may require and demand in order to enable him to ascertain the just tax chargeable upon any land in the municipality for that year. R.S.O. 1937, c. 272, s. 129 (2, 3).

127. If two or more municipalities, having been united for municipal purposes, are afterwards disunited, or if a municipality or part of a municipality is afterwards added to or detached from any county, or to or from any other municipality, the county or other treasurer shall make corresponding alterations in his books, so that arrears due on account of any parcel or lot of land, at the date of the alteration, shall be placed to the credit of the municipality within which the land after such alteration is situate. R.S.O. 1937, c. 272, s. 130.

128. The county or other treasurer shall not be required to keep a separate account of the several distinct rates which may be charged on lands, but all arrears, from whatever rates arising, shall be taken together and form one charge on the land. R.S.O. 1937, c. 272, s. 131.

129.—(1) After the collector's roll has been returned to the treasurer of a township or village, and before such treasurer has furnished to the county treasurer the statement mentioned in section 126, arrears of taxes may be paid to such local treasurer; but after the said statement has been returned to the county treasurer, no more money on account of the arrears then due shall be received by any officer of the municipality to which the roll relates.

(2) The collection of arrears shall thenceforth belong to the treasurer of the county alone, and he shall receive payment of such arrears, and of all taxes on lands of non-residents, and he shall give a receipt therefor, specifying the amount paid, for what period, the description of the lot or parcel of land, and the date of payment, in accordance with the provisions of section 139. R.S.O. 1937, c. 272, s. 132.

130. The county treasurer and the treasurer of any municipality whose officers have power to sell lands for arrears of taxes may from time to time receive part payment of taxes returned to him as in arrears upon any land for any year and shall credit such payment first on account of the interest and percentage charges, if any, added to such taxes; but no such payment shall be received after a warrant has issued for the sale of the land for taxes. R.S.O. 1937, c. 272, s. 133; 1939, c. 3, s. 11; 1941, c. 5, s. 7.

DUTIES OF TREASURERS, CLERKS AND ASSESSORS

131.—(1) The treasurer of every county shall furnish to the clerk of each municipality in the county except those whose officers have power to sell lands for arrears of taxes, and the treasurer of every such last-mentioned municipality shall furnish to the clerk of the municipality (or in cities having an

assessment commissioner, the treasurer of the city shall furnish to the assessment commissioner) a list of all the lands in the municipality in respect of which any taxes have been in arrears for the three years next preceding the 1st day of January in any year, and the said list shall be so furnished on or before the 1st day of February in every year and shall be headed in the words following: "*List of lands liable to be sold for arrears of taxes in the year 19...*"; and, for the purpose of the computation of such three years, the taxes for each year shall be deemed to have been in arrears on and from the 1st day of January in such year. R.S.O. 1937, c. 272, s. 134; 1949, c. 6, s. 13 (1).

Treasurer to furnish supplemental list of lands no longer liable to be sold.

(2) Where in any year the list referred to in subsection 1 has been furnished to the clerk or assessment commissioner of a municipality, the treasurer who furnished the same shall not later than the 15th day of September in that year, or such earlier date as the clerk or assessment commissioner may request in writing, furnish a supplemental list to the clerk or assessment commissioner showing thereon the lands, if any, included in the earlier list which at the date of the supplemental list are no longer liable to be sold for arrears of taxes. 1949, c. 6, s. 13 (2).

Clerks to keep the lists in their offices open to inspection, give copies to assessors, notify occupants, etc.

132.—(1) The clerk of the municipality or assessment commissioner is hereby required to keep the said list, so furnished by the treasurer, on file in his office, subject to the inspection of any person requiring to see the same, and he shall also deliver a copy of such list to the assessor of the municipality in each year as soon as he is appointed, and it shall be the duty of the assessor to ascertain if any of the lots or parcels of land contained in such lists are occupied or built upon or are incorrectly described, and to notify such occupants and also the owners thereof, if known, whether resident within the municipality or not, upon their respective assessment notices, or otherwise, that the land is liable to be sold for arrears of taxes, and to enter in a column to be reserved for the purpose the words "*Occupied or Built upon and Parties Notified*", or "*Not occupied*", or "*Incorrectly described*", or as the case may be, and all such lists shall be signed by the assessor, verified as provided in subsection 3, and returned to the clerk with the assessment roll, together with a memorandum of any error discovered therein, and the clerk shall compare the entries in the assessor's return with the assessment roll and report any differences to the assessor for verification, and the clerk shall transmit such lists and any such memorandum forthwith to the treasurer of the municipality if the municipality is one whose officers have power to sell lands for arrears of taxes, or in other cases to the county treasurer, and

the treasurer in either case shall attach the seal of the corporation to such lists and file the same in his office for public use, and every such list or copy thereof shall be received in any court as evidence, in any case arising concerning the assessment of such lands. R.S.O. 1937, c. 272, s. 135 (1).

(2) Where in any year the clerk or assessment commissioner of a municipality is furnished with the supplemental list mentioned in subsection 2 of section 131, he shall forthwith deliver a copy thereof to the assessor and after its delivery to the assessor subsections 1 and 3 shall cease to apply in respect of the lands shown on the supplemental list. 1949, c. 6, s. 14.

Assessor to be furnished with copy of supplemental list of lands no longer liable to be sold.

(3) The assessor shall attach to each such list a certificate signed by him, and verified by oath or affirmation, in the form following:

Assessor's certificate.

I do certify that I have examined all the lots in this list named; and that I have entered the names of all occupants thereon, as well as the names of the owners thereof, when known; and that all the entries relative to each lot are true and correct, to the best of my knowledge and belief.

R.S.O. 1937, c. 272, s. 135 (2).

133. If, on an examination of the non-resident collector's roll or the return required under section 132 of lands liable to be sold for taxes, or otherwise, it appears to the treasurer that any land liable to assessment has not been assessed for the current year, he shall report the same to the clerk of the municipality; thereupon, or if the same comes to the knowledge of the clerk in any other manner, the clerk shall proceed as provided in section 50. R.S.O. 1937, c. 272, s. 137; 1947, c. 3, s. 29.

Proceedings where any land is found not to have been assessed.

134. Any clerk or assessment commissioner, as the case may be, of any municipality who neglects to preserve the said list of lands in arrears for taxes, furnished to him by the treasurer, in pursuance of section 131, or to furnish copies of such lists, as required, to the assessor, or neglects to return to the treasurer a correct list of the lands which have become occupied, or built upon, as required by section 132, or any assessor who neglects to examine the lands entered on his list, and to make returns in manner hereinbefore directed, shall be guilty of an offence and liable to a penalty of not more than \$200. R.S.O. 1937, c. 272, s. 139.

Penalty for neglect to preserve list of lands in arrears for taxes.

135.—(1) Whenever it is shown to the court of revision or to the council of a municipality that taxes or rates are or have become due upon land assessed in one block, the court or council, upon the application by the treasurer of the municipi-

Apportionment of taxes where land assessed in block.

pality or by or on behalf of any person claiming to be the owner of one or more parcels of the land, may, after notice of the application to all owners, direct the apportionment of the taxes or rates upon the said parcels in proportion to their relative value at the time of the assessment, regard being had to all special circumstances, and the council may direct how any part payment made under section 130 is to be applied, and upon payment of the apportionment assigned to any parcel, the payment shall be a satisfaction of the taxes or rates thereon, or the court or the council, as the case may be, may make such other direction as the case may require, and the provision herein contained shall be retroactive in its operation, but shall not apply to any lands which have been advertised for sale for taxes or rates.

Minute of
apportion-
ment for
treasurer.

(2) Forthwith after an apportionment has been made, the clerk shall transmit a copy of the minute or resolution to the treasurer, who, upon receipt thereof, shall enter the same in his books, and thereafter each lot or other subdivision of the land affected shall be liable only for the amount of taxes or rates apportioned thereto, and shall only be liable for sale for non-payment of the tax or rate so apportioned or charged against it. R.S.O. 1937, c. 272, s. 140.

Apportion-
ment of
taxes in
muni-
cipalities
having
an assess-
ment com-
missioner.

136. In municipalities having an assessment commissioner, where taxes or rates are or have become due upon land assessed in one block, the assessment commissioner, upon application by or on behalf of any person claiming to be an owner of one or more parcels of such land, may, after notice of application to all the owners, make the apportionment mentioned in subsection 1 of section 135, and thereafter the treasurer shall accept taxes or rates apportioned to any subdivision in satisfaction of the taxes or rates thereon, and each subdivision shall only be liable to sale for non-payment of the taxes or rates so apportioned to or charged against it. R.S.O. 1937, c. 272, s. 141; 1950, c. 3, s. 22.

Appeal.

137. An appeal may be had by any owner or owners to the court of revision from any apportionment made by any assessment commissioner under section 136, and may be had by the municipality or by any owner or owners to the judge of the county court from any decision or apportionment of the court of revision given or made on appeal from the assessment commissioner under this section or given or made by the court of revision or council under section 135. R.S.O. 1937, c. 272, s. 142.

Written
statement
of arrears.

138.—(1) The treasurer shall, on demand, give a written certified statement of the arrears due on any land, and he

may charge thirty-five cents for the search and certified statement on each separate parcel, but he shall not make any charge to any person who forthwith pays the taxes. R.S.O. 1937, c. 272, s. 143 (1); 1948, c. 5, s. 19.

(2) The certified statement aforesaid may be according to ^{Form.} Form 7. R.S.O. 1937, c. 272, s. 143 (2).

139.—(1) The treasurer of every county shall keep a ^{County treasurers, etc., to keep} triplicate blank receipt book and, on receipt of any sum of money for taxes on land, shall deliver to the person making payment one of such receipts, and shall deliver to the treasurer of the local municipality in which the land is situate the second of the set, with the corresponding number, retaining the third of the set in the book, the delivery of such receipts to be made to the treasurer of the local municipality at least every three months. ^{triplicate blank receipt books.}

(2) The county treasurer shall file such receipts, and, in ^{Filing of receipts.} a book to be kept for that purpose, shall enter the name of the person making payment, the lot on which payment is made, the amount paid, the date of payment and the number of the receipt, and the auditors shall examine and audit such books and accounts at least once in every twelve months.

(3) In cities, towns and other municipalities having power to sell lands for non-payment of taxes, the treasurer thereof shall keep a duplicate blank receipt book, and on receipt of any sum of money for taxes on land shall deliver to the person making the payment one of such receipts, retaining the second of the set in the book, and the auditors shall examine and audit the said books and accounts at least once in every year. ^{Treasurer to keep duplicate receipt book.} R.S.O. 1937, c. 272, s. 144.

140. If any person produces to the treasurer, as evidence ^{As to pretended receipt, etc.} of payment of any tax, any paper purporting to be a receipt of a collector, school trustee or other municipal officer, he shall not be bound to accept the same until he has received a report from the clerk of the municipality interested, certifying the correctness thereof, or until he is otherwise satisfied that such tax has been paid. R.S.O. 1937, c. 272, s. 145.

141. The treasurer of every county shall keep a separate ^{Lands on which taxes unpaid to be entered in certain books by treasurer.} book for each township and village, in which he shall enter all the lands in the municipality on which it appears, from the returns made to him by the clerk and from the collector's roll returned to him, that there are any taxes unpaid, and the amounts so due, and he shall, on the 1st day of May in every year, complete and balance his books by entering against

every parcel of land the arrears, if any, due at the last settlement, and the taxes of the preceding year which remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date. R.S.O. 1937, c. 272, s. 146.

Interest
on tax
arrears.

142.—(1) Notwithstanding any special Act passed before the 5th day of April, 1946, the treasurer, collector or county treasurer, as the case may be, shall add to the amount of all taxes due and unpaid, interest at the rate of one-half of one per cent per month for each month or fraction thereof from the 31st day of December in the year in which the taxes are levied until the taxes are paid. 1946, c. 3, s. 30 (1, 3).

Interest,
etc., not to
be com-
pounded.

(2) No interest or percentage added to taxes shall be compounded.

Interest,
etc., to form
part of
taxes.

(3) Interest and percentages added to taxes shall form part of such taxes and be collected as taxes. R.S.O. 1937, c. 272, s. 147 (2, 3).

SALE OF LANDS FOR TAXES

(NOTE.—*For procedure in lieu of tax sales in certain municipalities, see The Department of Municipal Affairs Act, Rev. Stat., c. 96.*)

What lands
only to
be sold.

143. The treasurer shall not sell any lands for taxes which have not been included in the list furnished by him pursuant to section 131 to the clerks of the municipalities in the month of January preceding the sale. R.S.O. 1937, c. 272, s. 148; 1946, c. 3, s. 31.

When lands
to be sold
for taxes.

144.—(1) Where a part of the tax on any land is in arrear for three years as provided by section 131 and subject to the provisions of section 143, the treasurer shall, unless otherwise directed by by-law of the council, submit to the warden of the county a list in duplicate of all the lands liable under the provisions of this Act to be sold for taxes, with the amount of arrears against each lot set opposite to the same, and the name and address of the owner, if known, and the warden shall authenticate each of such lists by affixing thereto the seal of the corporation and his signature, and one of such lists shall be deposited with the clerk of the county and the other shall be returned to the treasurer with a warrant thereto annexed, under the hand of the warden and the seal of the

county, commanding the treasurer to levy upon the land for the arrears due thereon, with his costs.

(2) In municipalities whose officers have power to sell lands for arrears of taxes the treasurer may add to the taxes shown in the list of lands liable to be sold for taxes, any taxes which have fallen due since those shown in the lists furnished by the treasurer to the clerk under section 131, and have been returned by the collector to him as provided in section 125, and the said lands may be sold as if such last-mentioned taxes had been included in the statement furnished to him by the clerk, under section 131. R.S.O. 1937, c. 272, s. 149.

Treasurer to have power to add arrears accruing after return.

145. The treasurer shall, in each case, add to the arrears his commission or other lawful charges, and the costs of publication. R.S.O. 1937, c. 272, s. 150.

Expenses added to arrears.

146. The council of a county or municipality whose officers have power to sell lands for arrears of taxes may by by-law passed for that purpose, from time to time, direct that no warrant shall issue for the sale of lands for taxes until after the expiration of a longer period than that provided by section 144, and may also direct that such lands only be included in the warrant as are chargeable with arrears exceeding a certain sum to be named in the by-law, and may also direct that such lands only be included in the warrant as belong to any classification mentioned in the by-law or are of the character mentioned therein. R.S.O. 1937, c. 272, s. 151.

By-law extending period of three years, etc.

147. In the list annexed to every warrant the lands mentioned therein shall be distinguished as patented, unpatented, or under lease or licence of occupation from the Crown or municipality and the interest therein, if any, of the Crown or of the municipality shall be specially mentioned. R.S.O. 1937, c. 272, s. 152.

Distinguishing lands in list annexed to warrant.

148. The county treasurer may, from time to time, correct any clerical error which he himself discovers or which may be certified to him by the clerk of any municipality. R.S.O. 1937, c. 272, s. 153.

Correction of errors by treasurer.

149. If there are to the knowledge of the treasurer goods and chattels liable to distress upon any land in arrear for taxes, he shall levy the arrears of taxes and the costs by distress, and shall have the same authority to collect by distress as a collector has under the provisions of this Act, and the provisions of section 114 shall apply thereto; but no sale of the land shall be invalid by reason of the treasurer

Where distress on premises, treasurer may distrain.

not having distrained, though there were on the land goods and chattels liable to distress before or at the time of sale. R.S.O. 1937, c. 272, s. 154.

Treasurer's duty on receiving warrant to sell.

150. A treasurer shall not be bound to make inquiry, before effecting a sale of land for taxes, to ascertain whether or not there is any distress upon the land; nor shall he be bound to inquire into or form any opinion of the value of the land. R.S.O. 1937, c. 272, s. 155.

Treasurer to prepare list of lands to be sold.

151.—(1) The treasurer shall prepare a copy of the list of lands annexed to the warrant and shall add thereto in a separate column a statement of the proportion of costs chargeable on each lot for advertising and for his commission or other lawful charges, distinguishing therein any of such lands which are unpatented or under lease or licence of occupation from the Crown as “unpatented” or “under Crown lease” or “under Crown licence”, as the case may be, and such list shall contain a notice that unless the arrears of taxes and costs are sooner paid, the treasurer will proceed to sell the lands on the day and at the place specified therein.

Publication.

(2) Such list shall be published in *The Ontario Gazette* once during the month immediately preceding the period of time mentioned in section 152.

Publication of list and notice of sale.

(3) A notice stating that copies of the list of lands for sale for arrears of taxes may be had in the office of the treasurer and that such list has been published in *The Ontario Gazette* on the day specified in such notice and that unless the arrears of taxes and costs are sooner paid the treasurer will proceed to sell the lands on the day and at the place named therein, shall be published once a week for the thirteen weeks immediately preceding the day of sale in at least one newspaper published in the county or in the case of a union of counties in at least one newspaper published in each county of the union, or where the sale is to be held by the treasurer of a municipality in at least one newspaper published in the municipality and if no newspaper is published in the county or municipality then in at least one newspaper published in an adjacent county or municipality. 1939, c. 3, s. 12.

Time of sale.

152. The day of the sale shall be more than ninety-one days after the first publication of the list in *The Ontario Gazette*. R.S.O. 1937, c. 272, s. 157.

Notice to be posted up.

153. The treasurer of a county shall also post a printed copy of the list published in the newspaper in some convenient and public place at the court house of the county or district

at least three weeks before the time of sale and the treasurer of a municipality other than a county shall also post a printed copy of such list in some convenient and public place at the place where the council of the municipality usually meets at least three weeks before the time of sale. R.S.O. 1937, c. 272, s. 158.

154.—(1) For the purpose of tax sales the Lieutenant-Governor in Council may by Order in Council divide a provisional judicial district, and the council of any county may by by-law divide the county into tax sale districts, each of which may contain one or more municipalities. Tax sale districts.

(2) The Order in Council or by-law may provide that there-
after the sales of land situate therein for arrears of taxes shall be held by the treasurer at such place in the tax sale district as may be named in the Order in Council or by-law. Place of sales therein.

(3) Where any such Order in Council or by-law is passed, provision shall be made therein, or by further Order in Council or by-law, respecting the payment to the treasurer of his travelling and other expenses connected with his attending tax sales. Payment of expenses.

(4) Every advertisement or notice of a tax sale shall state the name or number of the tax sale district and the place therein at which the sale will be held. R.S.O. 1937, c. 272, s. 159. Advertisement, what to contain.

155. If at any time appointed for the sale of the lands no bidders appear, the treasurer may adjourn the sale from time to time. R.S.O. 1937, c. 272, s. 160. Adjourning sale, if no bidders.

156.—(1) If the full amount of the taxes for which the land was offered for sale has not been collected, or if no person appears to pay the same at the time and place appointed for the sale, the treasurer shall sell by public auction so much of the land as is sufficient to discharge the taxes, and all lawful charges incurred in and about the sale and the collection of the taxes, selling in preference such part as he may consider best for the owner to sell first, and, in offering or selling such lands, it shall not be necessary to describe particularly the portion of the lot which is to be sold, but it shall be sufficient to say that he will sell so much of the lot as may be necessary to secure the payment of the taxes, and the owner or any person interested in the land may redeem the same within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with expenses of sale, Mode in which the lands shall be sold by the treasurer.

and together with ten per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 2 of section 174, and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 3. 1947, c. 3, s. 30 (1).

When land does not sell for full amount of taxes.

(2) If the treasurer fails at such sale to sell any land for the full amount of taxes, including the full amount of commission and other lawful charges and costs added under section 145, he shall at such sale adjourn the same until a day then to be publicly named by him, not earlier than a week nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the local papers in which the original sale was advertised, and on such day he shall sell such lands unless otherwise directed by the council of the municipality in which they are situate, for any sum he can realize, and shall accept such sum as full payment of such taxes; and the owner or any person interested in the land may redeem the same within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the taxes for which the land was offered for sale, together with expenses of sale, and together with ten per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 2 of section 174, and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 3. R.S.O. 1937, c. 272, s. 161 (2); 1946, c. 3, s. 32 (1); 1947, c. 3, s. 30 (2).

Purchase by municipality.

(3) If the price offered for any land at the adjourned sale is less than the full amount of the taxes for which the land was offered for sale and the charges and costs, or if no price is offered, it shall be lawful for the municipality to purchase the same for the amount due, provided that an appropriation has been made for the purpose and that previous notice by public advertisement in the local newspaper or in one of the local newspapers in which the original sale was advertised, of intention so to do has been given by the treasurer; and the owner or any person interested in the land may redeem the same within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full

amount of the taxes for which the land was offered for sale, together with the expenses of the sale, and together with ten per cent added thereto, and together with the amount of the charges for searches, postage and notice provided for in subsection 2 of section 174, and together with the taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, and such taxes shall be computed at the rate fixed by by-law for each year in which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed and upon the frontages shown upon the list of properties and the frontages thereof as settled by the court of revision for such local improvement. 1947, c. 3, s. 30 (3).

157.—(1) Notwithstanding section 156, the treasurer shall not be obliged to sell for taxes only a portion of land separately assessed but may sell the whole of such land for the best price offered at the sale, and any money obtained by the treasurer as the price of such land shall be applied, firstly, in paying the full amount of the taxes for which the land was offered for sale, together with the expenses of sale, and, secondly, in payment of the taxes, including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land, and the balance, if any, shall be paid by the treasurer to the owner of the land or to such other person as may be authorized by law to receive the same less such charge and expenses as the treasurer may pay or incur in satisfying himself of the right of such owner or other person to receive the same, and it shall be the duty of the person claiming the balance to produce to the treasurer proof of his right to receive the same; provided that the owner or any person interested in the land may redeem the same within one year from the date of purchase, exclusive of the day of purchase, upon payment of the full amount of the purchase price, together with ten per cent added thereto, and together with the full amount of the charges for searches, postage and notice provided for in subsection 2 of section 174, and the balance, if any, outstanding of the taxes including local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 2 of section 156, but if the purchaser is the municipi- Mode of selling land for taxes.

pality redemption as aforesaid may be made upon payment of the full amount of the taxes for which the land was offered for sale, together with the expenses of sale, and together with ten per cent added thereto, and together with the full amount of the charges for searches, postage and notice provided for in subsection 2 of section 174, and together with the taxes including local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and been liable for taxation, determined as provided in subsection 3 of section 156. 1946, c. 3, s. 33 (1).

Unclaimed
balances.

(2) Any balance payable to the owner of the land sold or to any other person entitled thereto shall, if not claimed within six years after the sale, belong to the municipality absolutely. 1947, c. 3, s. 31.

Purchase by
municipality.

(3) Where an appropriation has been made for the purpose, the municipality may purchase lands under this section. 1944, c. 7, s. 16.

When
purchaser
fails to pay
purchase
money.

158. If a purchaser fails to pay his purchase money immediately the treasurer shall forthwith again put up the property for sale. R.S.O. 1937, c. 272, s. 163.

Land in
which the
Crown has
an interest.

159.—(1) Where the Crown whether as represented by the Government of Canada or the Government of the Province of Ontario, or any tribe or body of Indians or any member thereof, has an interest in any land in respect of which taxes are in arrear, the interest only of persons other than the Crown, tribe or body of Indians or any member thereof, therein shall be liable to be sold for arrears of taxes.

Tax deed
not to affect
interest of
Crown.

(2) Where the treasurer so sells the interest of any person it shall be distinctly expressed, in the tax deed to be made under this Act to the purchaser, that the sale is only of the interest of such person in the land, and (whether so expressed or not) the tax deed shall in no wise affect the interest or rights of the Crown or tribe or body of Indians or any member thereof in the land sold, and shall give the purchaser the same interest and rights only in respect of the land as the person had whose interest is being sold.

Validity of
tax deed.

(3) Where the interest so sold of any person is that of a lessee, licensee or locatee, the tax deed shall be valid without requiring the consent of the Minister of Lands and Forests. R.S.O. 1937, c. 272, s. 164.

160. No person shall be entitled to purchase at a sale for taxes, under section 156 or from a municipality which has purchased land thereunder, more unpatented land in the free grant districts than a locatee is entitled to obtain or hold under Part II of *The Public Lands Act*. R.S.O. 1937, c. 272, s. 165. Land purchased at tax sales not to exceed limit fixed by Rev. Stat., c. 309.

161. No sale for taxes shall be made of unpatented land in the free grant districts where the taxes due thereon are less than \$10, if the lands have not been before the 27th day of May, 1893, advertised for sale, nor where no *bona fide* improvements have been made by or on behalf of the locatee. R.S.O. 1937, c. 272, s. 166. Sales not to be made where taxes less than \$10, or no improvements made.

162. All lands in the free grant districts purchased under sale for taxes shall be subject to all the terms and conditions as to settlement or otherwise required by Part II of *The Public Lands Act*, unless under special circumstances the Minister of Lands and Forests sees fit to dispense therewith in whole or in part. R.S.O. 1937, c. 272, s. 167. Lands purchased to be subject to conditions of Rev. Stat., c. 309.

163. If the treasurer sells any interest in land of which the fee is in the city, town or other municipality in respect of which the taxes accrue, he shall only sell the interest therein of the lessee or tenant, and it shall be so distinctly expressed in the tax deed. R.S.O. 1937, c. 272, s. 168. Sale of interest of lessee or tenant of municipal property.

164. No sale of lands for taxes or for rates under a drainage or local improvement by-law shall invalidate or in any way affect the collection of a rate which has been assessed against or imposed or charged upon such lands prior to the date of the sale, but which accrues or becomes due and payable after the rates or taxes in respect of which the sale is had became due and payable or after the sale. R.S.O. 1937, c. 272, s. 169. Sale of lands for taxes not to affect collection of other rates.

CERTIFICATE OF SALE—TAX DEED

165. The treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land, and what interest therein, have been sold, or stating that the whole lot or estate has been so sold, and describing the same, and also stating the quantity of land, the sum for which it has been sold, and the expenses of sale, and further stating that a deed conveying the same to the purchaser or his assigns, according to the nature of the estate or interest sold, with reference to sections 156 and 159, will be executed by the treasurer and warden on demand, at any time after the expiration of the period hereinafter provided for redemption. R.S.O. 1937, c. 272, s. 170. Treasurer selling to give purchaser a certificate of land sold.

Purchaser
of lands
deemed
owner for
certain
purposes.

166.—(1) The purchaser shall, on the receipt of the treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the same from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value.

Limitation
of liability.

(2) The purchaser shall not be liable for damage done to the property without his knowledge during the time the certificate is in force. R.S.O. 1937, c. 272, s. 171.

Repairs.

(3) Where the purchaser is a municipality, it may make any expenditure necessary in order to keep the land in a proper state of repair or to insure the same and the amount thereof with interest as provided in section 142 may be added to the amount required to redeem the land, provided that the treasurer has sent at least one month before making such expenditure a notice containing the particulars of the proposed expenditure and an estimate of the cost thereof to each encumbrancer, if any, and to the registered owner by registered letter mailed to the address of such encumbrancer or owner if known to the treasurer and if such address is not known to the treasurer then to any address of such encumbrancer or owner appearing in the records of the registry office or sheriff's office. 1944, c. 7, s. 17.

Effect of
tender of
arrears, etc.

167. From the time of a tender to the treasurer of the full amount of redemption money required by this Act, the purchaser shall cease to have any further right in or to the land in question. R.S.O. 1937, c. 272, s. 172.

Treasurer's
commission.

168. Every treasurer shall be entitled to two and one-half per cent commission upon the sums collected by him, as aforesaid, except that where the taxes against any parcel of land are less than \$10, the treasurer shall be entitled to charge, in lieu of his commission, twenty-five cents; but where the treasurer is paid a salary for his services such commission may, by arrangement with the council, be paid into the funds of the municipality like any other revenue of the municipality. R.S.O. 1937, c. 272, s. 173.

Fees, etc.,
on sales
of land.

169. Where land is sold by a treasurer according to the provisions of section 151, and following sections of this Act, he may add the commission and other charges which he is authorized by this Act to charge for the services above-mentioned, to the amount of arrears on those lands in respect

of which such services have been severally performed, and in every case he shall give a statement in detail with each certificate of sale, of the arrears and costs incurred. R.S.O. 1937, c. 272, s. 174.

170. The treasurer shall, in all certificates and deeds given for lands sold at such sale, give a description of the part sold with sufficient certainty, and if less than a whole lot is sold, then he shall give such a general description as may enable a surveyor to lay off the piece sold on the ground, and he may make search, if necessary, in the registry office to ascertain the description and boundaries of the whole parcel, and he may also obtain a surveyor's description of such lots, to be taken from the registry office or the government maps, where a full description cannot otherwise be obtained, and the charges so incurred shall be included in the account and paid by the purchaser of the land sold or the person redeeming the same. R.S.O. 1937, c. 272, s. 175; 1950, c. 3, s. 23.

Expenses of search in registry office for description, etc.

171. Except as hereinbefore provided, the treasurer shall not be entitled to any other fees or emoluments whatever for any services rendered by him relating to the collection of arrears of taxes on lands. R.S.O. 1937, c. 272, s. 176.

Treasurer entitled to no other fees.

172. The treasurer shall give to the person paying redemption money a receipt stating the sum paid and the object of payment, and such receipt shall be evidence of the redemption. 1946, c. 3, s. 34.

Evidence of redemption.

173. Notwithstanding the provisions of this or any other Act, where land that has been sold for taxes has been purchased by the municipality and the period for redemption has expired and where such land has not been sold or conveyed and has not been declared by by-law to be required for the purposes of the municipality, any person to whom notice was sent under subsection 2 of section 174 shall at any time with the approval of the Department be entitled to a conveyance of such land upon payment of the full amount that would have been payable in respect of taxes, penalties and interest had the land not been sold for taxes, together with the amount with interest thereon of any expenditure incurred for repairs and insurance and together with the costs in connection with such sale and of such conveyance. 1946, c. 3, s. 35.

Conveyance to former owner.

174.—(1) Within ninety days from the day of sale, the treasurer shall, if the land is not previously redeemed, make or cause to be made search in the registry office and in the sheriff's office to ascertain whether or not there are mortgages or other encumbrances affecting the land sold and who is the registered owner of the land. R.S.O. 1937, c. 272, s. 178 (1).

Treasurer to search title.

Notice to
encum-
brancer
and owner.

(2) The treasurer shall within the said period of ninety days from the day of sale, if the land is not previously redeemed, send to each encumbrancer, if any, and to the registered owner by registered letter mailed to the address of such encumbrancer or owner if known to the treasurer, and if such address is not known to the treasurer then to any address of such encumbrancer or owner appearing in records of the registry office or sheriff's office, a notice stating that the land has been sold for taxes, the date of the sale, and that the encumbrancer or owner is at liberty within one year from the day of sale, exclusive of the day of sale, to redeem the estate sold by paying to the treasurer the amount required to redeem the estate and the amount of the charges for the searches aforesaid and for registration of the notice mentioned in subsection 3 and postage and twenty-five cents for the notice, the amount aforesaid to be specified in the notice. R.S.O. 1937, c. 272, s. 178 (2); 1939, c. 3, s. 13; 1946, c. 3, s. 36 (1).

Registration
of notice
of sale.

(3) The treasurer shall within ninety days from the date of sale register in the registry office a written notice stating that the land described therein has been sold for taxes, the date of the sale, the time within which the land may be redeemed and the amount required to redeem the same, and for registration of such notice the registrar shall be paid a fee of \$1. R.S.O. 1937, c. 272, s. 178 (3); 1946, c. 3, s. 36 (2).

Registered
notice to be
verified by
affidavit as
to sending
of notices.

(4) The notice mentioned in subsection 3 shall have attached thereto or endorsed thereon a statutory declaration of the treasurer setting forth the names and addresses of all persons to whom he has sent the notice required by subsection 2 and the date of sending the notice to each such person. 1949, c. 6, s. 15.

Receipts if
arrears paid.

(5) If within the time aforesaid payment of the said amount is made by any such encumbrancer or by the owner of the land the treasurer shall give to the person making the payment a receipt stating the sum paid and the object of the payment, and the same shall be evidence of the redemption, and any encumbrancer making the payment may add the amount to his debt.

Who to be
entitled to
receipt.

(6) In case of payment by the owner the receipt aforesaid shall be given to him and in case of payment by one or more encumbrancers and not by the owner, the receipt shall be given to that encumbrancer who is first in priority, and the amount paid by other persons shall be repaid to them. R.S.O. 1937, c. 272, s. 178 (4, 5).

Receipt of
redemption.

(7) If under subsection 3 a notice of sale of land for taxes has been registered and the land is redeemed, the treasurer

shall upon payment of the redemption money deliver to the person paying the same a receipt signed by himself stating therein a description of the land redeemed, the person who redeemed the same and the date and amount paid for redemption together with particulars of the registration of the notice, and a certified copy thereof shall be registered in the registry office by the treasurer, and for registration of such receipt the registrar shall be paid a fee of fifty cents. R.S.O. 1937, c. 272, s. 178 (6); 1947, c. 3, s. 32.

(8) If the redemption money is not paid within the time aforesaid the treasurer upon payment of the said charges for searches, postage and notice and \$1 for the deed, shall with the warden execute and deliver to the purchaser or his assigns or other legal representatives a tax deed in duplicate of the land sold. Execution and delivery of deed.

(9) Such deed, if requested, may include any number of lots, which are to be conveyed to the same person. Deed may include several lots.

(10) In any case where the treasurer fails to comply with the provisions of subsection 1 or 2 as to the time from the day of sale within which a search in the registry office and sheriff's office is made or notices to any encumbrancer and to the registered owner are sent, he may subsequently make or cause to be made the said search and send the said notice, provided however that in such case the time for redemption shall be within nine months from the day upon which the notice is sent and the notice shall so state. R.S.O. 1937, c. 272, s. 178 (7-9). Late searches and notices.

175. The words "treasurer" and "warden" in section 174 shall mean the person who at the time of the execution of the deed mentioned in that section holds the said office. R.S.O. 1937, c. 272, s. 179. Interpretation.

176.—(1) Out of the redemption money the treasurer shall pay to the purchaser (not being the municipality) or his assigns or other legal representatives the sum paid by him together with ten per cent thereon, and the balance less the lawful costs, charges and expenses of the treasurer shall belong to the municipality. Application of redemption money.

(2) Where the municipality is the purchaser the whole of the redemption money shall belong to it less the lawful costs, charges and expenses of the treasurer. R.S.O. 1937, c. 272, s. 180. Where municipality is purchaser.

177.—(1) The tax deed shall be according to Form 8, or to the same effect and shall state the date and cause of the sale, and the price, and shall describe the land according to the Contents of deed and effect thereof.

provisions of section 170, and shall have the effect of vesting the land in the purchaser, his heirs, assigns or legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold, and no such deed shall be invalid for any error or miscalculation in the amount of taxes or interest thereon in arrear, or any error in describing the land as "patented" or "unpatented" or "held under a licence of occupation" or "held under lease" or otherwise. R.S.O. 1937, c. 272, s. 181.

Declaration
of
treasurer.

(2) Notwithstanding subsection 1, a tax deed shall not be valid unless there is affixed thereto a statutory declaration of the treasurer that he has sent to the encumbrancers and registered owner the notice as provided in section 174, and such declaration shall form part thereof, and where the tax deed has been registered, the treasurer shall deposit the declaration in the proper registry or land titles office where it shall be attached to the tax deed of the land in respect of which it was made. 1944, c. 7, s. 18; 1946, c. 3, s. 37; 1948, c. 5, s. 20.

On what
certificate
registrars to
register
sheriff's
deeds of
land sold for
taxes before
1851.

178. As respects land sold for taxes before the 1st day of January, 1851, on the receipt by the registrar of the proper county or place of a certificate of the sale to the purchaser under the hand and seal of office of the sheriff, stating the name of the purchaser, the sum paid, the number of acres and the estate or interest sold, the lot or tract of which the same forms part, and the date of the sheriff's conveyance to the purchaser, his heirs, executors, administrators or assigns, and on production of the conveyance from the sheriff to the purchaser, his heirs, executors, administrators or assigns, such registrar shall register any sheriff's deed of land sold for taxes before the 1st day of January, 1851, and the mode of such registry shall be the entering on record of a transcript of such deed or conveyance. R.S.O. 1937, c. 272, s. 182.

Sheriff to
give cer-
tificate of
execution of
conveyances
after 1st
January,
1851, and
before 1st
January,
1866, for
registration.

179. As respects land sold for taxes after the 1st day of January, 1851, and prior to the 1st day of January, 1866, the sheriff shall also give the purchaser or his assigns, or other legal representatives, a certificate under his hand and seal of office of the execution of the deed, containing the particulars mentioned in the last section, and such certificate, for the purpose of registration in the registry office of the proper registry division of any deed of lands so sold for taxes, shall be deemed a memorial thereof, and the deed shall be registered, and a certificate of the registry thereof shall be granted by the registrar, on production to him of the deed and certificate, without further proof; and the registrar shall, for the registry and certificate thereof, be entitled to seventy cents and no more. R.S.O. 1937, c. 272, s. 183.

180. The treasurer shall enter in a book, which the county council or council of the city or town, as the case may be, shall furnish, a full description of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries have been made therein, shall together with all documents relating to lands sold for taxes be kept by him among the records of his office. R.S.O. 1937, c. 272, s. 184.

Treasurer to enter in a book descriptions of lands conveyed to purchasers.

181. If any part of the taxes for which any land has been sold in pursuance of any Act heretofore in force in Ontario or of this Act, had at the time of the sale been in arrear for three years as mentioned in section 131, and the land is not redeemed in one year after the sale, such sale, and the official deed to the purchaser (provided the sale was openly and fairly conducted) shall notwithstanding any neglect, omission or error of the municipality or of any agent or officer thereof in respect of imposing or levying the said taxes or in any proceedings subsequent thereto be final and binding upon the former owner of the land and upon all persons claiming by, through or under him, it being intended by this Act that the owner of land shall be required to pay the taxes thereon within three years after the same are in arrear or redeem the land within one year after the sale thereof, and in default of the taxes being paid or the land being redeemed as aforesaid, the right to bring an action to set aside the said deed or to recover the said land shall be barred. R.S.O. 1937, c. 272, s. 185.

Deed to be binding if land not redeemed in one year.

182. Wherever land is sold for taxes and a tax deed thereof has been executed, the sale and the tax deeds shall be valid and binding, to all intents and purposes, except as against the Crown, unless questioned before some court of competent jurisdiction within two years from the time of sale. R.S.O. 1937, c. 272, s. 186.

Deed valid if not questioned within a certain time.

183. In all cases where land has been validly sold for taxes, the conveyance by the officer who made the sale, or by his successors in office, shall not be invalid by reason of the statute under the authority whereof the sale was made having been repealed at and before the time of such conveyance, or by reason of the officer who made the sale having gone out of office. R.S.O. 1937, c. 272, s. 187.

Certain treasurer's deeds not to be invalid if the sale is valid.

184. In all cases where land is sold for arrears of taxes whether such sale is or is not valid, then so far as regards rights of entry adverse to a *bona fide* claim or right, whether valid or invalid, derived mediately or immediately under such sale, section 9 of *The Conveyancing and Law of Property Act* shall not apply, to the end and intent that in such cases the

Rights of entry adverse to tax purchaser.

Rev. Stat., c. 68.

Common
Law and
32 H. VIII,
c. 9, ss. 2,
4 and 6,
revived.

right or title of a person claiming adversely to any such sale shall not be conveyed where any person is in occupation adversely to such right or title, and that in such cases the Common Law and sections 2, 4 and 6 of the statute passed in the 32nd year of the reign of King Henry VIII, and chaptered 9, be revived, and the same are and shall continue to be revived. R.S.O. 1937, c. 272, s. 188.

Adjustment
of damages
when sale
held to be
invalid.

185.—(1) In all cases not being within any of the exceptions and provisions of subsection 3, where land having been legally liable to be assessed for taxes is sold for arrears of taxes then in case an action is brought for the recovery of the land and the sale is held to be invalid, damages shall be assessed for the defendant for the amount of the purchase money at the sale and interest thereon, and of all taxes paid by the defendant in respect of the lands since the sale and interest thereon, and of the value of any improvements made by the defendant before the commencement of the action, or by any person through or under whom he claims, less all just allowances for the timber sold off the lands, and all other just allowances to the plaintiff, and the value of the land to be recovered shall also be assessed less the value of any such improvements.

The plaintiff
to pay
damages
into court
before writ
of possession
issues, or
tax pur-
chaser may
elect to
retain the
land on
paying its
value.

(2) If a judgment is pronounced for the plaintiff, no writ of possession shall issue until the expiration of one month thereafter nor until the plaintiff has paid into court for the defendant the amount of such damages, or, if the defendant desires to retain the land, he may retain it, on paying into court within the said period of one month, or on or before any subsequent day to be appointed by the court, the value of the land as assessed at the trial; after which payment no writ of possession shall issue, but the plaintiff on filing in court for the defendant a sufficient release and conveyance to the defendant of his right and title to the land in question, shall be entitled to the money so paid in by the defendant.

When
section not
to apply;

if taxes
paid before
sale;

if land
redeemed;

(3) This section shall not apply in the following cases:

(a) if the taxes for non-payment whereof the land was sold have been fully paid before the sale;

(b) if, within the period limited by law for redemption the amount paid by the purchaser, with all interest payable thereon, has been paid or tendered to the person entitled to receive such payment, with a view to the redemption of the lands;

in case
of fraud;

(c) where on the ground of fraud or evil practice by the purchaser at such sale, a court would grant equitable relief. R.S.O. 1937, c. 272, s. 189.

186.—(1) In any of the cases named in section 185, wherein the plaintiff is not tenant in fee simple, or fee tail, the payment into court to be made as aforesaid, of the value of the land, by the defendant desiring to retain the land, shall be into the Supreme Court, and the plaintiff and all parties entitled to and interested in the said lands, as against the purchaser at such sale for taxes, on filing in the Supreme Court a sufficient release and conveyance to the defendant of their respective rights and interests in the land, shall be entitled to the money so paid in such proportions and shares as to the Supreme Court, having regard to the interests of the various parties, seems proper.

Where the plaintiff is not tenant in fee, or in tail, the value of the land to be paid into Supreme Court.

(2) In any of such cases wherein the defendant is not tenant in fee simple or fee tail, the payment of damages into Court to be made as aforesaid by the plaintiff shall be into the Supreme Court. R.S.O. 1937, c. 272, s. 190.

Payment into Court where the defendant is not tenant in fee.

187.—(1) If the defendant does not pay into court the value of the land assessed as aforesaid, within the period of one month, or on or before any subsequent day appointed by the court, as mentioned in subsection 2 of section 185, any other person interested in the land under the sale or conveyance for taxes may, within ninety days after the date of the pronouncing of the judgment mentioned in subsection 2 of section 185, or before any subsequent day appointed by the court as mentioned in that subsection for payment by the defendant, pay into court the said value of the land, and till the expiration of the time within which such payment may be made, and after such payment, no writ of possession shall issue.

Any other person interested may pay in value assessed if defendant does not.

(2) The defendant or other person so paying in shall be entitled as against all others interested in the land under the sale or conveyance for taxes, to a lien on the land for such amount as exceeds the proportionate value of his interest enforceable in such manner and in such shares and proportions as to the Supreme Court, having regard to the interests of the various parties, and on hearing the parties, seems fit. R.S.O. 1937, c. 272, s. 191.

The payer to have a lien for such proportion as exceeds his interest.

188. If the defendant or any other person interested pays into court in manner aforesaid, the plaintiff shall be entitled to the amount so paid in on filing in court a sufficient release and conveyance to the person so paying in, of all his right and title to the lands, in which release and conveyance it shall be expressed that the same is in trust for such person to secure his lien as aforesaid. R.S.O. 1937, c. 272, s. 192.

How owner can obtain value of the land paid in.

How the value of improvements, etc., paid in can be obtained.

189. If the value of the land is not paid into court as above provided, the damages paid into the Supreme Court shall be paid out to the various persons who, if the sale for taxes were valid, would be entitled to the land, in such shares and proportions as to the Supreme Court having regard to the interests of the various parties, seems fit. R.S.O. 1937, c. 272, s. 193.

Provisions as to costs in cases where value of the land and improvements, etc., only in question.

190.—(1) In all actions for the recovery of land in which both the plaintiff (if his title were good) would be entitled in fee simple or fee tail, and the defendant (if his title were good) would be also so entitled, if the defendant, at the time of appearing gave notice in writing to the plaintiff in such action or to his solicitor named in the writ of the amount claimed, and that on payment of such amount, the defendant or person in possession will surrender the possession to the plaintiff; or that he desired to retain the land, and was ready and willing to pay the court a sum mentioned in the said notice as the value of the land, and that the defendant did not intend at the trial to contest the title of the plaintiff, and if the jury, or the judge, if there be no jury, before whom the action is tried, assess damages for the defendant as provided in sections 185 to 189 and it satisfactorily appears that the defendant does not contest the action for any other purpose than to retain the land on paying the value thereof, or to obtain damages, the judge before whom the action is tried shall certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence in the same manner as if the plaintiff had been nonsuited on the trial, or a verdict had been rendered for the defendant.

Provisions as to costs in certain cases.

(2) If on the trial it is found that such notice was not given as aforesaid, or if the judge or jury assess for the defendant a less amount than that claimed in the notice, or find that the defendant had refused to surrender possession of the land after tender made of the amount claimed, or (where the defendant has given notice of his intention to retain the land), that the value of the land is greater than the amount mentioned in the notice, or that he has omitted to pay into court the amount mentioned in the notice for thirty days after the plaintiff had given to the defendant a written notice that he did not intend to contest the value of the land, the judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff and upon the trial of any action after such notice, no evidence shall be required in proof of the title of the plaintiff. R.S.O. 1937, c. 272, s. 194.

Tax purchaser without other remedy whose title is invalid to have a lien for purchase money, etc.

191. In any case in which the title of the tax purchaser is not valid, or in which no remedy is otherwise provided by this Act, the tax purchaser shall have a lien on the lands for

the purchase money paid at the sale, and interest thereon at the rate of ten per cent per annum, and for the taxes paid by him since the sale and interest thereon at the rate aforesaid, to be enforced against the land in such proportions as regards the various owners and in such manner as the Supreme Court thinks proper. R.S.O. 1937, c. 272, s. 195.

192. No valid contract entered into between any tax purchaser and original owner, in regard to any land sold or assumed to have been sold for taxes as to purchase, lease or otherwise, shall be annulled or interfered with by this Act, but such contract and all consequences thereof, as to admission of title or otherwise shall remain in force as if this Act had not been passed. R.S.O. 1937, c. 272, s. 196.

Contracts between tax purchaser and original owner continued.

193. Nothing in sections 184 to 192 shall affect the right or title of the owner of any land sold for taxes, or of any person claiming through or under him, where such owner at the time of the sale was in occupation of the land, and the same has since the sale been in the occupation of such owner or of those claiming through or under him. R.S.O. 1937, c. 272, s. 197.

Sections 184 to 192 not to apply where the owner has occupied since sale.

194. In the construction of sections 183 to 193, occupation by a tenant shall be deemed the occupation of the reversioner, and the words "tax purchaser" shall apply to any person who purchases at any sale under colour of any statute authorizing sale of land for taxes and shall include and extend to all persons claiming through or under him, and the words "original owner" shall include and extend to any person who, at the time of such sale, was interested in or entitled to the land sold, or assumed to be sold, and to all persons claiming through or under him. R.S.O. 1937, c. 272, s. 198.

Construction of "tax purchaser", "original owner".

195. Where the tax arrears procedures under *The Department of Municipal Affairs Act* are in effect in a municipality as defined in the said Act, it shall not be necessary for the treasurer or other officer of the municipality to furnish to the county treasurer or sheriff any of the information or statements required under this Act in respect of tax arrears, and the powers and duties of the warden or treasurer of a county or sheriff under this Act in respect of tax arrears and tax sales shall not apply in respect of the municipality, and all the powers and duties of the county treasurer or sheriff in respect of arrears of taxes shall be vested in the treasurer of the municipality. 1946, c. 3, s. 38.

Where tax arrears procedures of Rev. Stat., c. 96, in effect.

196. In cities and towns arrears of taxes shall be collected and managed in the same way as is hereinbefore provided in the case of other municipalities, and for such purposes the municipal officers of cities and towns shall perform the same

Collection of arrears of taxes in cities or towns.

duties and have the same powers as the like officers in other municipalities under sections 126 to 194, and the treasurer and mayor of every city or town shall, for such purposes, also perform the like duties as are hereinbefore, in the case of other municipalities, imposed on the county treasurer and warden respectively and shall have the like powers, and words referring to the county treasurer or warden shall as to a city or town be taken and deemed to refer to the mayor and treasurer of such city or town, provided however that in cities and towns the performance of any such duty after the date or within a longer time than hereinbefore set out shall not render any proceedings under this Act invalid or illegal so long as the provisions of this Act are in other respects duly complied with. R.S.O. 1937, c. 272, s. 199.

Sale of land
for taxes in
certain
townships.

197.—(1) All powers conferred upon cities and towns by section 196, or any of the sections referred to in that section and all duties imposed by said sections upon the officers of such cities and towns, and the mayors thereof, shall hereafter be vested in and apply to the Townships of York, Scarborough and Etobicoke in the County of York, to the Townships of Bertie, Crowland and Stamford in the County of Welland and to the Township of Barton in the County of Wentworth, and to the reeves of said townships, and for the purposes of the collection of arrears of taxes on lands therein and the sale of such lands for taxes, the said townships shall be considered as towns, and wherever the word “town” occurs in any of the said sections it shall be held to apply to and include the said townships and wherever the word “mayor” occurs in the said sections it shall be held to apply to the reeve of each of the said townships for the time being. R.S.O. 1937, c. 272, s. 200 (1).

County
by-law
extending
application
of section.

(2) The council of a county may by by-law declare that subsection 1 shall thereafter apply to any township or village named in the by-law, and thereupon the powers conferred on cities and towns by section 196 or any of the sections referred to in that section, and all duties imposed by the said sections, upon the officers of said cities and towns and the mayors thereof, shall be vested in and apply to the corporation of such township or village and to the reeve or other head thereof, in the same manner and to the same extent as in the case of the municipalities mentioned in subsection 1. R.S.O. 1937, c. 272, s. 200 (3); 1947, c. 3, s. 33.

Collection of
taxes and
sales of land
for taxes in
districts.

198. Arrears of taxes due to the corporation of any municipality in a provisional judicial district shall be collected and managed in the same way as like arrears due to municipalities in counties, and the treasurer and head of such municipality

shall perform the like duties in the collection and management of arrears of taxes as are performed in a county by the treasurer and warden. R.S.O. 1937, c. 272, s. 201.

199. Every municipal council in paying over any rate to a body for which it is required by law to levy rates shall, except where otherwise provided, supply out of the funds of the corporation any deficiency caused by the non-payment of taxes and where any deficiency is caused by the abatement or refund of, or inability to collect taxes, the council shall charge back a proportionate share thereof to every such body. 1944, c. 7, s. 19.

Where deficiency occurs.

ARREARS OF TAXES IN NEW MUNICIPALITIES

200. Upon the incorporation of any new town, in any county, the county treasurer shall make out a list of all arrears of taxes then due and unpaid in his books upon lands situated in the newly incorporated town, and shall transmit the list to the treasurer of the town, who after receipt thereof, shall have, with the mayor, all the powers possessed by the county treasurer and warden for the collection of such taxes and for enforcement of the same by sale; but in the list the county treasurer shall not include any lot then advertised for sale for taxes. R.S.O. 1937, c. 272, s. 204.

On incorporation of a town, county treasurer to transmit list of arrears to town treasurer.

201. In cases where a new local municipality is formed from two or more municipalities or portions of two or more municipalities situated in different counties, the collection of arrears of taxes due at the time of formation shall be made by the treasurer of the county in which the new municipality is situate, if the new municipality is a township or village, or if the new municipality is a town, by the treasurer of such town, and for the purpose of enabling him to make the collection, the treasurer or the treasurers of the other county or counties from which any portion of the new municipality is detached, shall immediately upon the formation thereof make out lists of the arrears of taxes then due in their respective portions, and transmit the same to the treasurer of the county in which the new municipality is situate, or of the town as the case may be and where a new municipality is formed from two or more municipalities situate in any one county, the treasurer shall keep a separate account for such new municipality. R.S.O. 1937, c. 272, s. 205.

Arrears of taxes, how collected where new municipality formed.

202. The treasurer and warden of the county in which the new municipality, if it be a township or village, is situate, and the treasurer and mayor of the new municipality, if it be a town, shall have power, respectively, to take for the collection

Who may take proceedings to enforce collection.

of such arrears of taxes all the proceedings which treasurers and wardens or treasurers and mayors can take for the sale and conveyance of land in arrear for taxes, and if the lands in the new municipality have been advertised by the treasurer or treasurers of the county or counties of which the new municipality formed part before its formation, the sale of such lands shall be completed in the same manner as if the new municipality had not been formed. R.S.O. 1937, c. 272, s. 206.

Proceedings where returns made to treasurer before separation.

203. Where a municipality or part of a municipality has been or is hereafter separated from one county and included in another after a return has been made to the treasurer of the county to which it formerly belonged of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the former county, such treasurer shall return to the treasurer of the county to which such territory belongs a list of all the lands within such territory returned as in arrear for taxes and not advertised, and the treasurer and warden of the county to which the territory belongs shall have power respectively to take all the proceedings which treasurers and wardens can take under this Act for the sale and conveyance of lands in arrear for taxes; but if the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyances of lands previously sold shall be made in like manner. R.S.O. 1937, c. 272, s. 207.

Sales for taxes on lands which have been annexed to city or separated town.

204. Where a municipality or any part of a municipality has been or is hereafter separated from a county and included in a city or town separated from the county for municipal purposes, after a return has been made to the treasurer of the county of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the county, such treasurer shall return to the treasurer of the city or town a list of all the lands within such territory returned as in arrear for taxes and not advertised, and the treasurer and mayor of the city or town shall have the power to take all the proceedings which treasurers and wardens can take under this Act for the sale and conveyance of lands in arrear for taxes; but if the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyances of lands previously sold shall be made in like manner. R.S.O. 1937, c. 272, s. 208.

RESPONSIBILITY OF OFFICERS

Penalty on officers failing to perform their duty.

205. Any treasurer, assessor, clerk or other officer who refuses or neglects to perform any duty required of him by this Act, for which no other penalty is imposed, shall be

guilty of an offence and liable to a penalty of not more than \$100. R.S.O. 1937, c. 272, s. 209.

206. If an assessor neglects or omits to perform his duties, ^{Other assessors may act for those in default.} the other assessor, or other assessors (if there be more than one for the same locality), or one of such assessors, shall, until a new appointment, perform the duties, and any council may, after an assessor neglects or omits to perform his duties, appoint some other person to discharge such duties, and the assessor so appointed shall have all the powers and be entitled to all the emoluments which appertain to the office. R.S.O. 1937, c. 272, s. 210.

207. Any clerk, treasurer, assessment commissioner, ^{Penalty for unjust or fraudulent assessment.} assessor or collector, or any assistant or other person in the employment of the municipality, acting under this Act, who makes an unjust or fraudulent assessment or collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts or permits to be inserted therein the name of any person which should not be entered, or fraudulently omits or allows to be omitted the name of any person which should be entered, or wilfully omits any duty required of him by this Act, shall be guilty of an offence and liable to a penalty of not more than \$200, or to imprisonment for a term of not more than six months, or to both. R.S.O. 1937, c. 272, s. 211.

208.—(1) Any assessment commissioner or assessor or ^{Disclosure of information.} other person in the employ of a municipality who in the course of his duties acquires or has access to information furnished by any person pursuant to section 12 or 13, which relates in any way to determination of the value of any real property or the amount of assessment thereof or to the determination of the amount of any business assessment, and who wilfully discloses or permits to be disclosed any such information not required to be entered on the assessment roll to any other person not likewise entitled in the course of his duties to acquire or have access to the information, shall be guilty of an offence and liable to a penalty of not more than \$200, or to imprisonment for a term of not more than six months, or to both.

(2) This section shall not prevent disclosure of such in- ^{Exception.} formation by any person when being examined as a witness in an assessment appeal or in an action or other proceeding in a court or in an arbitration. 1950, c. 3, s. 24.

209. Any assessor of any township, village or ward who ^{Penalty for neglect to make out roll.} neglects or omits to make out and complete his assessment roll for the township, village or ward and to return the same to the clerk of such township or village, or of the city or town in

which such ward is situated, or to the proper officer or place of deposit of such roll within the prescribed period, shall be guilty of an offence and liable to a penalty of not more than \$200. R.S.O. 1937, c. 272, s. 212.

Proceedings for compelling collectors to pay over moneys collected to the proper treasurer.

210. If a collector refuses or neglects to pay to the proper treasurer or other person legally authorized to receive the same, the sums contained in his roll, or duly to account for the same as uncollected, the treasurer shall, within twenty days after the time when the payment ought to have been made, issue a warrant under his hand and seal directed to the sheriff of the county or city, as the case may be, commanding him to levy of the goods, chattels, lands and tenements of the collector and his sureties, such sum as remains unpaid and unaccounted for, with costs, and to pay to the treasurer the sum so unaccounted for, and to return the warrant within forty days after the date thereof. R.S.O. 1937, c. 272, s. 213.

Warrant to be delivered to sheriff, etc.

211. The treasurer shall immediately deliver the warrant to the sheriff of the county or city, as the case may require. R.S.O. 1937, c. 272, s. 214.

Sheriff to execute warrant and pay money levied.

212. The sheriff to whom the warrant is directed shall within forty days, cause the same to be executed and make return thereof to the treasurer, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation as upon writs of execution issued out of courts of record. R.S.O. 1937, c. 272, s. 215.

Mode of compelling, sheriff, etc., to pay over

213. If a sheriff refuses or neglects to levy any money when so commanded, or to pay over the same, or makes a false return to the warrant, or neglects or refuses to make any return, or makes an insufficient return, the treasurer may, upon affidavit of the facts, apply in a summary manner to the Supreme Court, or to a judge thereof, for an order *nisi* or summons calling on the sheriff to answer the matter of the affidavit. R.S.O. 1937, c. 272, s. 216.

When returnable.

214. The order *nisi* or summons shall be returnable at such time as the court or judge directs. R.S.O. 1937, c. 272, s. 217.

Hearing on return.

215. Upon the return of the order *nisi* or summons, the court or judge may proceed in a summary manner upon affidavit, and without formal pleading, to hear and determine the matter of the application. R.S.O. 1937, c. 272, s. 218.

Fi. fa. to the coroner to levy the money.

216. If the court or judge is of opinion that the sheriff has been guilty of the dereliction alleged against him, the court or judge shall order the proper officer of the court to issue

a writ of *feri facias*, adapted to the case, directed to a coroner of the county in which the municipality is situate, or to a coroner of the city or town, as the case may be, for which the collector is in default. R.S.O. 1937, c. 272, s. 219.

217. The writ shall direct the coroner to levy of the goods and chattels of the sheriff, the sum which the sheriff was ordered to levy by the warrant of the treasurer, together with the costs of the application and of the writ and of its execution, and the writ shall bear date on the day of its issue, and shall be returnable forthwith on its being executed, and the coroner, upon executing the same, shall be entitled to the same fees as upon a writ grounded upon a judgment of the court. R.S.O. 1937, c. 272, s. 220.

Tenor of such writ and execution thereof.

218. A sheriff who wilfully omits to perform any duty required of him by this Act shall be guilty of an offence and liable to a penalty of not more than \$200. R.S.O. 1937, c. 272, s. 221.

Penalty on sheriff.

219. All money assessed, levied and collected for the purpose of being paid to the Treasurer of Ontario, or to any other public officer, for the public uses of Ontario, or for any special purpose or use mentioned in the Act under which the same is raised, shall be assessed, levied and collected by, and accounted for and paid over to the same persons, in the same manner, and at the same time as taxes imposed on the same property for county, city or town purposes and shall be deemed and taken to be money collected for the county, city or town, so far as to charge every collector or treasurer with the same, and to render him and his sureties responsible therefor, and for every default or neglect in regard to the same, in like manner as in the case of money assessed, levied and collected for the use of the county, city or town. R.S.O. 1937, c. 272, s. 222.

Payment of money collected for the Province.

220. All money collected for county purposes or for any of the purposes mentioned in section 219 shall be payable by the collector to the township, town or village treasurer, and by him to the county treasurer, and the corporation of the township, town or village shall be responsible therefor to the corporation of the county. R.S.O. 1937, c. 272, s. 223.

How money collected for county purposes to be paid over.

221. Any bond or security given by the collector or treasurer to the corporation of the township, town or village, to account for and pay over all money collected or received by him, shall apply to money collected or received for county purposes, or for any of the purposes mentioned in section 228. R.S.O. 1937, c. 272, s. 224.

Collectors or treasurers bound to account for all moneys collected by them.

Local
treasurer to
pay over
county
moneys to
county
treasurer.

222.—(1) The treasurer of every township, town or village shall, on or before the 20th day of December in each year, pay to the treasurer of the county all moneys which were assessed and by law required to be levied and collected in the municipality for county purposes or for any of the purposes mentioned in section 219, and in case of non-payment of such moneys or any portion thereof on or before the said date, the township, town or village so in default shall pay to the county interest thereon at the rate of six per cent per annum from the said date until payment shall be made.

Reduced
penalty
rate and
allowance of
discount for
prepayment.

(2) The council of a county may by by-law provide for a rate of interest of less than six per cent per annum in case of non-payment of moneys assessed for county purposes and may also provide for payment of a discount at such rate per annum as the by-law may set forth for payment of moneys or any portion thereof assessed for county purposes if paid prior to the 20th day of December in the year in which the same are payable. R.S.O. 1937, c. 272, s. 225.

Mode of
enforcing
such
payments.

223. If default is made in such payment, the county treasurer may retain or stop a like amount out of any money which would otherwise be payable by him to the municipality, or may recover the same by an action against the municipality, or where the same has been in arrear for three months, he may, by warrant under his hand and seal, reciting the facts, direct the sheriff of the county to levy and collect the amount due with interest and costs from the municipality in default. R.S.O. 1937, c. 272, s. 226.

How sheriff
to make
levy.

Rev. Stat.,
c. 120.

224. The sheriff, upon receipt of the warrant, shall levy and collect the amount, with his own fees and costs in the same manner as is provided by *The Execution Act* in the case of executions against municipal corporations. R.S.O. 1937, c. 272, s. 227.

Treasurer,
etc., to
account for
and pay
over Crown
moneys.

225. The county, city or town treasurer shall be accountable and responsible to the Crown for all money collected for any of the purposes mentioned in section 219, and shall pay over such money to the Treasurer of Ontario. R.S.O. 1937, c. 272, s. 228.

Municipality
responsible
for such
moneys.

226. Every county, city and town shall be responsible to His Majesty, and to all other persons interested, that all money coming into the hands of the treasurer of the county, city or town in virtue of his office, shall be duly paid over and accounted for by him according to law. R.S.O. 1937, c. 272, s. 229.

227. The treasurer and his sureties shall be responsible and accountable for such money to the county, city or town, and any bond or security given by them for the duly accounting for and paying over money belonging to the county, city or town, shall apply to all money mentioned in section 219 and may be enforced against the treasurer or his sureties in case of default. R.S.O. 1937, c. 272, s. 230.

Treasurer,
etc., re-
sponsible to
county, etc.

228. The bond of the treasurer and his sureties shall apply to school money, and to all public money of Ontario, and in case of default, His Majesty may enforce the responsibility of the county, city or town, by stopping a like amount out of any public money which would otherwise be payable to the county, city or town or to the treasurer thereof, or by action against the corporation. R.S.O. 1937, c. 272, s. 231.

Bonds to
apply to
school
money.

229. Any person aggrieved by the default of the treasurer may recover from the corporation of the county, city or town the amount due or payable to such person as money had and received to his use. R.S.O. 1937, c. 272, s. 232.

City, etc.,
responsible
for default
of treasurer,
etc.

MISCELLANEOUS

230. Any affidavit or oath required by this Act to be made may be made before any assessor or any justice of the peace having jurisdiction in the municipality or any commissioner for taking affidavits or any notary public for the Province. R.S.O. 1937, c. 272, s. 233.

Oaths and
affidavits.

231. Any person who wilfully tears down, injures or defaces any advertisement, notice or other document, which is required by this Act to be posted up in a public place for the information of persons interested, shall be guilty of an offence and liable to a penalty of not more than \$20. R.S.O. 1937, c. 272, s. 234.

Tearing
down
notices, etc.

232. Prosecutions for contraventions of this Act where a penalty or imprisonment is imposed shall be had under *The Summary Convictions Act*. R.S.O. 1937, c. 272, s. 235.

Recovery of
penalties.
Rev. Stat.,
c. 379.

233. When not otherwise provided, all penalties recovered under this Act shall be paid to the treasurer to the use of the municipality. R.S.O. 1937, c. 272, s. 236.

Application
of penalties.

234. In addition to the penalties and punishments provided for by this Act for a contravention of the provisions thereof, the person guilty of such contravention shall be liable to every person who is thereby injured for the damages sustained by such person by reason of such contravention. R.S.O. 1937, c. 272, s. 237.

Right of
action for
damages
against
officer.

By-laws and agreements fixing assessments or granting exemption from taxation not affected.

235. This Act shall not affect the terms of any agreement made with a municipal corporation, or any by-law heretofore or hereafter passed by a municipal council under any other Act for fixing the assessment of any property, or for commutating or otherwise relating to municipal taxation, but whenever in any Act of this Legislature or by any Proclamation of the Lieutenant-Governor in Council or by any valid by-law of a municipality heretofore passed or by any valid agreement heretofore entered into the assessment of the real and personal property of any person in a municipality is fixed at a certain amount for a period of years, unexpired at the time of the coming into force of this Act, or the taxes payable annually by any person in respect to the real and personal property are fixed at a stated amount during any such period, or the real and personal property of any person or any part thereof is exempt from municipal taxation in whole or in part for any such period, such fixed assessment, or commutation of taxes or exemption shall be deemed to include any business assessment or other assessment and any taxes thereon in respect to the property or business mentioned in such Act, Proclamation, by-law or agreement to which such person or the property of such person would otherwise be liable under this Act. R.S.O. 1937, c. 272, s. 238.

Grants in lieu of taxes.

236.—(1) Where any person or real property is by this or any other Act exempt or partly exempt from taxation under this Act and a grant in lieu of the taxes which would otherwise be payable is made to the municipal corporation in any year, the amount of such grant shall be distributed by the council to each of the bodies for which the council is required by law to levy rates in such year in the same proportion as the levy of each such bodies bears to the total levy.

Idem.

(2) In this section the bodies to share in the distribution shall be the bodies to which the taxes of such person or real property would have been applied if such person or real property had not been exempt or partly exempt. 1944, c. 7, s. 20.

FORM 1

(Section 13)

THE.....OF.....
(Name of Municipality)

NOTICE TO OWNER
TENANT FOR RETURN OF ASSESSMENT INFORMATION

Real Property to which this Notice relates

Roll No..... (19...) Ward..... Poll. Sub. No..... School Section
or Area No.....

Name of Owner last assessed.....

Name of Tenant last assessed.....

Lot or part of Lot No. Concession No. Reputed Acreage.....Ac.

Street and Street No..... on Side of Street
(Number) (Name of Street)

Subdivision Lot or part of Lot No. Block..... Registered Plan No.....
(Assessor to fill in whichever description most readily identifies the property)

To..... P.O. Address.....

We understand you are the present owner or part owner
tenant of the above described
property which during the current year we have already visited on two or more occasions
in the course of our duties, namely, on

.....
(The Assessor must enter date of each visit on above line)
to enable us to make an accurate assessment of both persons and property for entry
on the assessment roll now being made. On none of these occasions were we able to
obtain information we must enter on the roll or on the census register and we are
compelled, therefore, to seek the missing information from you so that the proper
assessment and record of persons and property may be made. Herewith we send you
the undermentioned forms of questionnaire which pursuant to *The Assessment Act*
you are required to complete and have filed with the undersigned within 10 days after
the date of delivery or mailing of this notice. We trust you will give prompt attention
to this matter and thereby avoid subjecting yourself to the penalty for non-compliance
which the statute imposes.

Forms of Questionnaire herewith:
.....

(The assessor to enter above the particular form or forms being sent by showing the reference
letter which identifies it, namely, A, B, C, D, E, F or G, as the case may be.)

Dated this.....day of.....19...
(Assessor or Assessment Commissioner)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE A

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF REAL PROPERTY TO BE FURNISHED BY

OWNER

TENANT

1. Interior of Building:
- (a) Number of rooms.....
 - (b) Type of heating system.....
 - (c) Plumbing installation—Kinds and number of fixtures.....
-

2. Land Acreage (farm property only):
- (a) Cleared.....ac. (b) Woodland.....ac. (c) Slashland.....ac.
 - (d) Swamp, Marsh or Waste.....ac. (e) Total.....ac.

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19....
(Signature of Owner or Tenant)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE B

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF OWNERSHIP TO BE FURNISHED BY OWNER

1.	Name in full of each Owner	Female Owner M., W., or S.	Year of Birth	Address	Occupation	British Subject (B. S.) or Alien (A.)	Religion	Public or Separate School Support (P.S.) (S.S.)	Where Spouse (if any) is not an Owner	Given or Christian Name	Year of Birth

2. PARTICULARS OF OCCUPANCY BY OTHER THAN OWNER—

TO BE FURNISHED BY OWNER

(a) If the property is occupied by any person other than an owner:

(i) state name of such occupant.....

(ii) state nature of his occupancy.....

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19.... (Signature of Owner)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE C

Roll No. (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF GROSS RENTALS TO BE FURNISHED BY OWNER

1.	Gross Rentals	Preceding Year 19.... Actual	Current Year 19.... Estimated
		\$	\$
(a)	Total amount received and to be received for the whole year		
(b)	Total not received or receivable for the year by reason of:		
	(i) vacancies.....		
	(ii) occupancy by persons not obliged to pay rent or full rental.....		
	(iii) other causes as below stated.....		
	Total.....		

2. Do rent control regulations apply with respect to the whole or any part of the property? If so, state particulars:
-
-

3.	Deductions from Gross Rentals for services supplied by owner	Preceding Year 19.... Actual	Current Year 19.... Estimated
	(State nature and amount of each item separately)	\$	\$
(a)	.....	
(b)	.....	
(c)	.....	
	Total.....		

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19.... (Signature of Owner)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE D

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF TENANCY TO BE FURNISHED BY TENANT

[illegible]

2. Give name and P.O. Address hereunder of the owner, or if the owner's name is not known, give the name and P.O. Address of his agent or other person to whom the tenant pays rent.

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19..... (Signature of Tenant)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE E

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF GROSS RENTALS PAYABLE TO BE FURNISHED BY TENANT

1.	Gross Rentals	Preceding Year 19.... Actual	Current Year 19.... Estimated
		\$	\$
(a)	Total rent paid and yet to be paid for the whole year.....		
(b)	Total amount paid and yet to be paid (in addition to rent) with respect to the property for:		
	(i) services furnished by the owner.....		
	(ii) garage or car storage or parking space.....		
	(iii) other purposes as itemized below—		
		
		
		
	Total.....		

2. Do rent control regulations apply with respect to the whole or any part of the property? If so, state particulars.....
-
-

3.	Deduction from gross rentals payable which the owner is obliged to allow to the tenant. State nature and amount of each item separately.	Preceding Year 19.... Actual	Current Year 19.... Estimated
	(i)		
	(ii)		
	Total.....		

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19.... (Signature of Tenant)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE F

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)PARTICULARS OF CENSUS FOR CURRENT YEAR TO BE FURNISHED BY OWNER
TENANT

1. Name in full of each person residing on the property, including occupant's family, relatives, boarders, roomers, employees, etc.	Occupation	Year of Birth	British Subject (B. S.) or Alien (A.)

2. Number of dogs kept on the property:

(a) Male or spayed female..... (b) Female not spayed.....

Total.....

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19.... (Signature of Owner or Tenant)

P. O. Address.....

NOTICE, FORM 1—QUESTIONNAIRE G

Roll No..... (Roll of 19....) Ward..... Poll. Sub. No.....

Name of Assessed Owner..... Assessed Tenant.....
(Above to be filled in before delivery or mailing of the Notice)

PARTICULARS OF BUSINESS ASSESSMENT TO BE FURNISHED BY OCCUPANT

-
1. State name of occupant or occupants carrying on business on the premises.....
.....
.....
 2. State kind or nature of businesses carried on by occupant or occupants.....
.....
.....
 3. What amount of floor area does each kind or nature of business occupy?.....
.....
.....
-

I hereby certify that I have knowledge of the particulars contained in the foregoing Questionnaire and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Dated..... 19....
(Signature of Occupant)

P.O. Address.....

1950, c. 3, s. 25 (1) and Sched.

FORM 2

*(Section 30, Subsection 6)*FORM OF NOTICE BY NON-RESIDENT OWNER OF LAND REQUIRING TO BE
ASSESSED THEREFOR

To the Clerk of the Municipality of

Take notice that I (*or we*) own the land hereunder mentioned and require to be assessed, and to have my name (*or our names*) entered therefor on the Assessment Roll of the Municipality of

That my (*or our*) full name (*or names*), place of residence and Post Office Address, are as follows:

A. B., of the Township of York, shoemaker, Weston Post Office (*as the case may be*).
Description of land (*here give such description as will readily lead to the identification of the land*).

Dated this day of, 19.....

C.D.

Witness, G. H.

R.S.O. 1937, c. 272, Form 3.

PARTICULARS OF PERSONS ASSESSED

Names of Owners and Tenants	Owner (O.) Tenant (T.) Legislative Franchise (L.F.)	British Subject (B.S.) or Alien (A.)	Public School (P.S.) Separate School (S.S.) Support	Occupation	YOU ARE ASSESSED AS A PUBLIC SCHOOL SEPARATE SCHOOL SUPPORTER IN RESPECT OF THE ABOVE DESCRIBED PROPERTY

Where property is occupied by a tenant, taxation for school purposes is determined accordingly as the tenant is assessed for school support.

.....

Detach at perforation, if you are appealing your assessment. Retain the top portion and use lower portion for notice of appeal.

NOTICE OF APPEAL FROM ASSESSMENT

Roll No..... (19...)

THE..... OF.....
(Name of Municipality)

To the Clerk or Assessment Commissioner:

Take notice that I hereby appeal from the assessment made under the above-mentioned Roll Number for the following reasons:—

.....
.....
.....

Dated..... 19.... (Signature of Appellant or his Agent)

P.O. Address.....

1950, c. 3, s. 25 (2).

FORM 4

(Section 56)

AFFIDAVIT OR AFFIRMATION OF ASSESSOR IN VERIFICATION OF
ASSESSMENT ROLL

I (*name and residence*), make oath and say (*or solemnly declare and affirm*), as follows:

1. I have, according to the best of my information and belief, set down in the above assessment roll all the real property liable to taxation situate in the municipality (*or ward*) of (*as the case may be*); and I have justly and truly assessed in accordance with *The Assessment Act* each of the parcels of real property so set down and according to the best of my information and belief I have entered the names of all owners and tenants assessable in respect of each such parcel.

2. I have estimated and set down, according to the best of my information and belief, in said assessment roll, *the amounts assessable against every person named in the said roll for business or otherwise under The Assessment Act.*

3. According to the best of my knowledge and belief, I have entered therein the name of every person entitled to be so entered, either under *The Assessment Act* or any other Act; and I have not intentionally omitted from said roll the name of any person whom I knew or had good reason to believe, to be entitled to be entered therein under any or either of the said Acts.

4. I have entered in the said roll the date of delivery or transmitting of the notice required by section 46 of *The Assessment Act*; and every such date is truly and correctly stated in the said roll.

5. I have not entered the name of any person at too low a rate in order to deprive such person of a vote, or at too high a rate in order to give such person a vote; and the amount for which each such person is assessed in the said roll truly and correctly appears in the said notice delivered or transmitted to him as aforesaid.

6. I have not entered any name in the above roll, or improperly placed any letter or letters in column 5, opposite any name with intent to give to any person not entitled to vote, a right of voting; and I have not intentionally omitted from the said roll the name of any person whom I believe to be entitled to be placed therein, nor have I, in order to deprive any person of the right of voting, omitted from column 5 opposite the name of such person, any letter or letters which I ought to have placed there.

Sworn (*or solemnly declared and affirmed*)
before me at the.....of
.....in the county of
....., this.....day of
....., A.D. 19.....

FORM OF OATH TO BE ATTACHED TO ASSESSMENT ROLL

Where assistant of an Assessment Commissioner enters date of delivery or transmission of notices under Section 46.

I, (*name of assistant and residence*) make oath and say (*or solemnly declare and affirm*) as follows:—

I have entered in the assessment roll attached hereto, the date of delivery or transmission of the notice required by section 46 of *The Assessment Act*; and every such date has been truly stated in said roll.

R.S.O. 1937, c. 272, Form 5; 1939, c. 3, s. 14;
1948, c. 5, s. 22 (2).

FORM 5

(Section 69, Subsection 4)

FORM OF AFFIDAVIT AS TO TEMPORARY ABSENCE

I,, make oath and say as follows:

A.B. is a British subject by birth (*or* naturalization) and is not a citizen or a subject of any foreign country and has resided in Canada for the nine months next preceding the day of in the present year (*the day to be filled in here is the date on which by Statute or by-law the Assessor is to begin making his roll*).

He (*or* she) was at the said date in good faith a resident of and domiciled in (*giving name of municipality for which the Assessor is making his roll*), and has resided therein continuously from the said date, and he now resides therein at (*here give the residence by the number thereof, if any, and the street or locality whereon or wherein the same is situated, if in a town or village. If the residence is in a township, give the concession wherein, and the lot or part of lot whereon it is situated*).

And he (*or* she) has not been absent from Ontario during the said nine months except occasionally or temporarily *or* as a member of a permanent militia corps enlisted for continuous service *or* on service as a member of the active militia, *or* as a student in attendance at an institution of learning in Canada, that is to say (*here name institution*), as the case may be.

He (*or* she) is of the full age of 21 years, and is not disqualified under *The Election Act* or otherwise by law prohibited from voting at elections for the Legislative Assembly of Ontario.

Sworn before me at in the County of
this day of, 19.....

.....
(Signature of Voter)

.....
(Signature of J.P., or Commissioner, etc.)

(*The oath may be taken before any Assessor or any Justice of the Peace, Commissioner for taking Affidavits, or Notary Public.*)

R.S.O. 1937, c. 272, Form 11.

(Section 121, Subsection 3)

R.S.O. 1937, c. 272, Form 8.

(Section 138, Subsection 2)

R.S.O. 1937, c. 272, Form 9.

FORM 8

(Section 177)

TAX DEED

To all to whom these presents shall come:

We, of the of Esquire,
 Warden (*or Mayor, or Reeve*), and of the of
 Esquire, Treasurer of the County (*or City or Town or Township*) of
 Send Greeting:

WHEREAS by virtue of a warrant under the hand of the Warden (*or Mayor or Reeve*) and seal of the said County (*or City or Town or Township*), bearing date the day of in the year of our Lord one thousand nine hundred and commanding the Treasurer of the said County (*or City or Town or Township*) to levy upon the land hereinafter mentioned for the arrears of taxes due thereon, with his costs, the Treasurer of the said County (*or City or Town or Township*) did, on the day of 19....., sell by public auction to of the of in the County of that certain parcel or tract of land and premises hereinafter mentioned, at and for the price or sum of of lawful money of Canada, on account of the arrears of taxes alleged to be due thereon up to the day of in the year of our Lord one thousand nine hundred and together with the costs:

Now know ye, that we, the said and as Warden (*or Mayor or Reeve*) and Treasurer of the said County (*or City or Town or Township*) in pursuance of such sale, and of *The Assessment Act*, and for the consideration aforesaid, do hereby grant, bargain and sell unto the said his heirs and assigns, all that certain parcel or tract of land and premises containing being composed of (*describe the land so that the same may be readily identified*).

In witness whereof, we the said Warden (*or Mayor or Reeve*) and Treasurer of the said County (*or City or Town or Township*) have hereunto set our hands and affixed the seal of the said County (*or City or Town or Township*), this day of in the year of our Lord one thousand nine hundred and; and the Clerk of the County (*or City or Town or Township*) Council has countersigned.

A.B., Warden (*or Mayor or Reeve*), (*Corporate Seal*)

C. D., Treasurer.

Countersigned,

E. F., Clerk.

R.S.O. 1937, c. 272, Form 10.

CHAPTER 25

The Assignment of Book Debts Act

1. In this Act, unless the context otherwise requires, Inter-pretation.
- (a) "assignee" means any person to whom an assignment of book debts is made;
 - (b) "assignment" includes every legal and equitable assignment, whether absolute or by way of security, and every mortgage or other charge upon book debts;
 - (c) "assignor" means any person making an assignment of book debts;
 - (d) "book debts" means all such accounts and debts whether existing or future as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof;
 - (e) "creditors" means creditors of the assignor, whether execution creditors or not, who become creditors before the registration of an assignment, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the general benefit of creditors, a trustee under the *Bankruptcy Act* (Canada) and a liquidator of a company under the *Winding-up Act* (Canada) or under a Provincial Act containing provisions for the winding-up of companies, without regard to the time when the creditor so suing becomes a creditor, or when the assignee, trustee or liquidator is appointed; R.S.C., 1927,
cc. 11, 213.
 - (f) "proper officer" means the officer in whose office assignments are required to be registered in any registration district;
 - (g) "registered" means filed in accordance with the provisions of this Act;
 - (h) "registration district" means a district established under this Act for the registration of assignments;

- (i) "subsequent purchasers" includes any person who in good faith for valuable consideration and without notice obtains by assignment, an interest in book debts which have already been assigned;
- (j) "valuable consideration" includes,
 - (i) any consideration sufficient to support a simple contract,
 - (ii) an antecedent debt or liability. R.S.O. 1937, c. 183, s. 1.

Application
of Act.

2. This Act shall not apply to,

- (a) any assignment of book debts, whether by way of specific or floating charge, made by a corporation engaged in a trade or business within the Province and contained,
 - (i) in a trust deed or other instrument to secure bonds, debentures or debenture stock of the corporation or of any other corporation, or
 - (ii) in any bonds, debentures, or debenture stock of the corporation as well as in the trust deed of other instrument securing the same, or in a trust deed or other instrument securing bonds, debentures or debenture stock of any other corporation, or
 - (iii) in any bonds, debentures or debenture stock or any series of bonds or debentures of the corporation not secured by a separate instrument;
- (b) any assignment of book debts due at the date of the assignment from specified debtors;
- (c) any assignment of debts growing due under specified contracts;
- (d) any assignment of book debts included in a transfer of a business made *bona fide* and for value;
- (e) any assignment of book debts, included in any authorized assignment under the *Bankruptcy Act* (Canada). R.S.O. 1937, c. 183, s. 2.

3.—(1) Save as herein provided every assignment of book debts made by any person engaged in a trade or business within Ontario shall be absolutely void as against the creditors of the assignor and as against the subsequent purchasers unless such assignment is, <sup>Require-
ments as to
assignment.</sup>

(a) in writing;

(b) accompanied by an affidavit of an attesting witness or affidavits of attesting witnesses, of the execution thereof by the assignor, or by the assignors respectively, identifying the assignment and stating the date of execution by the assignor, or the respective dates of execution by the assignors, as the case may be, and a further affidavit of the assignee or one of the several assignees, his or their agent, stating that the assignment was executed in good faith and for valuable consideration and not for the purpose of protecting the book debts therein mentioned against the creditors of the assignor or for the purpose of preventing such creditors from recovering any claims which they have against the assignor;

(c) registered, as hereinafter provided, together with the affidavits within thirty days of the execution of the assignment.

(2) If there are two or more assignors, the date of execution of the assignment shall be deemed to be the date of the execution by the assignor who last executes it. <sup>Two or more
assignors.</sup>

(3) Every assignment which is required to be in writing and to be registered under this Act shall, as against creditors and subsequent purchasers, take effect only from the time of the registration of the assignment. <sup>To have
effect from
registration.</sup> R.S.O. 1937, c. 183, s. 3.

4.—(1) Registration of an assignment under this Act shall be effected by filing the assignment together with such affidavits as are by this Act required, within thirty days from its execution, in the office of the proper officer of a registration district determined in accordance with the following rules, <sup>How regis-
tration to be
effected.</sup>

(a) where the assignor is a corporation incorporated under the laws of Ontario, in the registration district in which the head office or registered office is situate;

(b) where the assignor is an extra-provincial corporation having a head office or registered office within

Ontario, in the registration district in which such head office or registered office is situate;

- (c) where the assignor is an extra-provincial corporation not having a head office or registered office within Ontario, in the office of the clerk of the county court of the County of York at Toronto;
- (d) where the assignor is not a corporation, in the registration district in which the assignor carries on business at the time of the execution of the assignment;
- (e) where the assignor is not a corporation, and at the time of the execution of the assignment carries on business in different registration districts, in any such registration district, and by filing a duplicate original of the assignment and affidavits, or a copy thereof, certified by the proper officer of that registration district, in each of the other registration districts.

Assignments
to be
numbered.

(2) The proper officer shall cause every assignment filed in his office to be numbered, to be endorsed with a memorandum of the day, hour and minute of filing, and to be indexed by entering in alphabetical order in a register kept by him, the names of the parties to the assignment with their descriptions and the dates of execution and registration of the assignment.


Where
registration
expires on
Sunday.

(3) Where the time for registration of any assignment or other document expires on a Sunday or other day on which the office in which the registration is to be made is closed, the registration shall, so far as regards the time of registration, be valid if made on the next following day on which the office is open. R.S.O. 1937, c. 183, s. 4.

Discharge of
assignment.

5.—(1) An assignment registered under this Act may be discharged in whole or in part by the registration in the office in which the same is registered of a certificate of discharge, signed by the assignee, his executors, administrators, or assigns, and accompanied by an affidavit of an attesting witness of the due execution thereof.

Noting
discharge.

(2) The proper officer in whose office a certificate of discharge accompanied by the affidavit of execution is registered, shall note the fact of such discharge against each entry in the books of his office respecting the registration of the assignment, and shall make a like notation upon the assignment or copy registered in his office. 

(3) If there are two or more assignors residing in different registration districts affected by the discharge, the registration may be effected either by filing a duplicate or other original of the certificate of discharge and affidavit of execution in the office of the proper officer in each of the registration districts, or by filing the certificate of discharge and affidavit of execution in one of the registration districts and by filing a certificate of the entry of the discharge therein, signed by the proper officer of that registration district in the office of the proper officer of each of the other registration districts and each proper officer shall make the like notations of the discharge in the records of his office as are provided by subsection 2.

Noting
discharge
in two or
more
registration
districts.

(4) The proper officer in whose office the certificate of discharge is registered shall on request furnish a certificate of the entry of the discharge in the records of his office. R.S.O. 1937, c. 183, s. 5.

Certificate
of entry of
discharge.

6. Upon payment of the prescribed fees every person shall have access to and be entitled to inspect the books of any proper officer containing records or entries of assignments or documents registered or filed under the provisions of this Act, and no person shall be required, as a condition of his right thereto, to disclose the name of the person in respect of whom such access or inspection is sought, and every proper officer shall, upon request accompanied by payment of the prescribed fees, produce for inspection any assignment or document so registered or filed in his office. R.S.O. 1937, c. 183, s. 6.

Inspection
of records.

7. For the purpose of registration of assignments or other documents each county and provisional judicial district in Ontario shall be a registration district and the clerk of the county or district court shall be the proper officer for the registration of assignments or documents in that registration district. R.S.O. 1937, c. 183, s. 7.

Registration
districts and
offices.

8.—(1) Affidavits required by this Act may be taken and made before the proper officer of any registration district or before any person, whether within or without Ontario, authorized to take affidavits in or concerning any cause, matter or thing pending in any court in Ontario.

Taking
affidavits.

(2) No registered assignment or other document shall be held to be defective or void solely on the ground that any affidavit required by this Act was taken and made before a solicitor for any of the parties to the assignment or other document, or before a partner of such solicitor, or before a clerk in the office of such solicitor. R.S.O. 1937, c. 183, s. 8.

Registration
not affected
by interest
of solicitor.

Affidavit
in case of
death of
assignee.

9. Any affidavit required by this Act to be made by an assignee may, in the event of his death be made by his executor or administrator or by any of his next-of-kin or by the duly authorized agent of the executor or administrator. R.S.O. 1937, c. 183, s. 9.

Affidavit
on behalf of
corporation.

10. Where the assignee is a corporation, every affidavit required or permitted by this Act to be made or given by the corporation as such assignee may be made or given by any officer, employee or agent of the corporation. R.S.O. 1937, c. 183, s. 10.

Affidavit of
agent or
officer.

11. Any affidavit made for the purposes of this Act by the agent of an assignee, or of an executor or administrator, or by an officer, employee or agent of a corporation, shall state that the deponent is aware of the circumstances connected with the assignment, and that he has a personal knowledge of the facts deposed to. R.S.O. 1937, c. 183, s. 11.

No affidavit
of execution
by cor-
poration.

12. Where an assignment or certificate of discharge or other document has been executed by a corporation under the provisions of this Act no affidavit of an attesting witness shall be required. R.S.O. 1937, c. 183, s. 12.

Power of
judge to
permit proof
of execution
otherwise
than by
affidavit of
witness.

13. In case, before the making of any affidavit of execution required by this Act, the attesting witness to an assignment, certificate of discharge or other document dies or leaves Ontario, or becomes incapable of making, or refuses to make such affidavit, the judge of the county or district court may make an order permitting the registration of the assignment, certificate of discharge or other document, upon such proof of its due execution and attestation as the judge, by the order, may require and allow, and the order, or a copy thereof, shall be annexed to the assignment, certificate of discharge, or other document, as the case may be, and filed therewith, and the registration of the assignment, certificate of discharge, or other document under and in compliance with the terms of the order, shall have the like effect as the registration thereof with the affidavit of execution otherwise required by this Act. R.S.O. 1937, c. 183, s. 13.

Rectifica-
tion of
omissions
and mis-
statements.

14. Subject to the rights of other persons accrued by reason of any omission or misstatement referred to in this section, the judge of the county or district court on being satisfied that the omission to register an assignment within the time prescribed by this Act, or any omission or misstatement in any document filed under this Act, was accidental or due to inadvertence or impossibility, or other sufficient cause, may, in his discretion, extend the time for

registration, or order the omission or misstatement to be rectified, on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter or thing as the judge thinks fit to direct, and the order, or a copy thereof, made under this section shall be annexed to the assignment or copy thereof on file or tendered for registration and appropriate entries shall be made in the register. R.S.O. 1937, c. 183, s. 14.

15. No defect or irregularity in the execution or attestation of an assignment, or other document, no defect, irregularity or omission in any affidavit accompanying an assignment or filed in connection with its registration, and no error of a clerical nature or in an immaterial or non-essential part of an assignment shall invalidate or destroy the effect of the assignment or the registration thereof, unless in the opinion of the court or judge before whom a question relating thereto is tried such defect, irregularity, omission, or error has actually misled some person whose interests are affected by the assignment. R.S.O. 1937, c. 183, s. 15. Defects and irregularities.

16. Copies of an assignment, certificate of discharge or other document registered or filed under this Act certified by the proper officer shall be received as *prima facie* evidence for all purposes as if the original assignment or document were produced and also as *prima facie* evidence of the execution of the original assignment or document according to the purport of such copy, and the certificate of the proper officer shall also be *prima facie* evidence of the date and hour of registration and filing. R.S.O. 1937, c. 183, s. 16. Evidence of records.

17. For services under this Act each proper officer shall be entitled to receive the following fees:

- | | |
|--|--------|
| 1. For filing and registering an assignment..... | \$.50 |
| 2. For filing and registering a certificate of discharge..... | .50 |
| 3. For a general search..... | .25 |
| 4. For any certificate of registration or discharge or other certificate for purposes of this Act..... | .25 |
| 5. For copy of any document filed under this Act including certificate, every one hundred words..... | .10 |

1939, c. 47, s. 1.

18. This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of the Provinces that enact it. R.S.O. 1937, c. 183, s. 18. Uniform construction of Act.

19. This Act shall not apply to any instrument registered under *The Corporation Securities Registration Act*. R.S.O. 1937, c. 183, s. 19. Rev. Stat., c. 71, not affected.

CHAPTER 26

The Assignments and Preferences Act

1. In this Act, "judge" means a judge of the county or district court of the county or district in which the assignment is required to be registered. Interpretation. R.S.O. 1937, c. 179, s. 1.

2. Where a judge is disqualified to act in a matter arising under this Act a judge of the county or district court of an adjoining county or district shall have jurisdiction to act in his place. Where judge disqualified. R.S.O. 1937, c. 179, s. 2.

3. Every confession of judgment, *cognovit actionem* or warrant of attorney to confess judgment given by a person, being at the time in insolvent circumstances or unable to pay his debts in full or knowing himself to be on the eve of insolvency, voluntarily or by collusion with a creditor with intent thereby to defeat, hinder, delay or prejudice his creditors wholly or in part, or to give one or more of his creditors a preference over his other creditors, or over any one or more of them, shall be null and void as against the creditors of the person giving the same and shall be ineffectual to support any judgment or execution. Nullity of certain confessions of judgment, etc. R.S.O. 1937, c. 179, s. 3.

4.—(1) Subject to section 5 every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes or securities, or of shares, dividends, premiums or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances or is unable to pay his debts in full, or knows that he is on the eve of insolvency, with intent to defeat, hinder, delay or prejudice his creditors, or any one or more of them, shall, as against the creditor or creditors injured, delayed or prejudiced, be null and void. Nullity of gifts, transfers, etc., made with intent to defeat or prejudice creditors.

(2) Subject to section 5 every such gift, conveyance, assignment or transfer, delivery over or payment made by a person being at the time in insolvent circumstances, or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, to or for a creditor with the intent to give such creditor an unjust preference over his other creditors or over any one or more of them shall, as against the creditor or

creditors injured, delayed, prejudiced or postponed, be null and void.

When there is presumption of intention if transaction has effect of unjust preference.

(3) Subject to section 5 if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them it shall in and with respect to any action or proceeding which, within sixty days thereafter, is brought, had or taken to impeach or set aside such transaction be presumed *prima facie* to have been made with the intent mentioned in subsection 2, and to be an unjust preference within the meaning hereof whether the same is made voluntarily or under pressure.

Idem.

(4) Subject to section 5 if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them it shall, if the debtor within sixty days after the transaction makes an assignment for the benefit of his creditors, be presumed *prima facie* to have been made with the intent mentioned in subsection 2, and to be an unjust preference within the meaning hereof whether the same be made voluntarily or under pressure.

"Creditor" for certain purposes to include surety and endorser.

(5) The word "creditor" in the fifth and sixth lines of subsection 2, in the second line of subsection 3, and in the second line of subsection 4, includes any surety and the endorser of any promissory note or bill of exchange who would upon payment by him of the debt, promissory note or bill of exchange, in respect of which such suretyship was entered into or such endorsement was given, become a creditor of the person giving the preference within the meaning of these subsections. R.S.O. 1937, c. 179, s. 4.

Assignments for benefit of creditors and *bona fide* sales, etc., protected.

5.—(1) Nothing in section 4 shall apply to an assignment made to the sheriff of the county or district in which the debtor resides or carries on business or, with the consent of a majority of his creditors having claims of \$100 and upwards computed according to section 24, to another assignee resident within Ontario, for the purpose of paying rateably and proportionately and without preference or priority all the creditors of the debtor their just debts; nor to any *bona fide* sale or payment made in the ordinary course of trade or calling to an innocent purchaser or person; nor to any payment of money to a creditor, nor to any *bona fide* conveyance, assignment, transfer or delivery over of any goods or property of any kind, which is made in consideration of a present actual *bona fide* payment in money, or by way of security for a present actual *bona fide* advance of money, or which is made in consideration of a present actual *bona fide* sale or delivery of goods or other

property where the money paid, or the goods or other property sold or delivered bear a fair and reasonable relative value to the consideration therefor.

(2) In the case of a valid sale of goods or other property, and payment or transfer of the consideration or part thereof by the purchaser to a creditor of the vendor, under circumstances which would render void such a payment or transfer by the debtor personally and directly, the payment or transfer, even though valid as respects the purchaser, shall be void as respects the creditor to whom the same is made. Transfer to creditor of consideration for sale invalid.

(3) Every assignment for the general benefit of creditors, which is not void under section 4, but is not made to the sheriff, nor to any other person with the prescribed consent of creditors, shall be void as against a subsequent assignment which is in conformity with this Act, and shall be subject in other respects to the provisions thereof until and unless a subsequent assignment is executed in accordance therewith. Effect of assignment not in accordance with Act.

(4) Where a payment has been made which is void under this Act and any valuable security was given up in consideration of the payment, the creditor shall be entitled to have the security restored or its value made good to him before, or as a condition of, the return of the payment. Security given up upon void payment to be returned.

(5) Nothing herein shall, Exceptions,

- (a) affect *The Wages Act*, or prevent a debtor providing wages; for payment of wages due by him in accordance with that Act; Rev. Stat., c. 415.
- (b) affect any payment of money to a creditor where such creditor, by reason or on account of such payment, has lost or been deprived of, or has in good faith given up, any valid security which he held for the payment of the debt so paid unless the security is restored or its value made good to the creditor; surrender of securities;
- (c) apply to the substitution in good faith of one security for another security for the same debt so far as the debtor's estate is not thereby lessened in value to the other creditors; or exchange of securities;
- (d) invalidate a security given to a creditor for a pre-existing debt where, by reason or on account of the giving of the security, an advance in money is made to the debtor by the creditor in the *bona fide* belief that the advance will enable the debtor to continue his trade or business and to pay his debts in full. certain securities to be valid.

R.S.O. 1937, c. 179, s. 5.

Residence
of assignee.

6. No person other than a permanent and *bona fide* resident of Ontario shall be assignee under an assignment within this Act, nor shall any assignee delegate his duties as assignee to or appoint as deputy any person who is not a permanent and *bona fide* resident of Ontario, and no charge shall be made or recoverable against the assignor or his estate for any services or other expenses of any such assignee, deputy or delegate of any assignee who is not a permanent and *bona fide* resident of Ontario. R.S.O. 1937, c. 179, s. 6.

Form of
assignment
for general
benefit of
creditors.

7. Every assignment made under this Act for the general benefit of creditors, if the property is described in the words "all my personal property which may be seized and sold under execution and all my real estate, credits, and effects", or in words to the like effect, shall vest in the assignee all the real and personal estate, rights, property, credits, and effects, whether vested or contingent, belonging to the assignor at the time of the assignment, except such as are by law exempt from seizure or sale under execution, subject, however, as regards land, to *The Registry Act* and *The Land Titles Act*. R.S.O. 1937, c. 179, s. 7.

Rev. Stat.,
cc. 336, 197.

All assign-
ments for
general bene-
fit of credi-
tors to be
subject to
this Act.

8. Every assignment for the general benefit of creditors, whether it is or is not expressed to be made under or in pursuance of this Act, and whether the assignment does or does not include all the real and personal estate of the assignor, shall vest the estate, whether real or personal or partly real and partly personal, thereby assigned in the assignee therein named for the general benefit of creditors, and such assignment and the property thereby assigned shall be subject to all the provisions of this Act, and the same shall apply to the assignee named in such assignment. R.S.O. 1937, c. 179, s. 8.

How claims
are to rank
where
different
estates.

9. If an assignor executing an assignment under this Act for the general benefit of his creditors owes debts both individually and as a member of a partnership, or as a member of different partnerships, the claims shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other or others after all the creditors of such other estate or estates have been paid in full. R.S.O. 1937, c. 179, s. 9.

Appoint-
ment of
substituted
assignee.

10.—(1) A majority in number and value of the creditors who have proved claims to the amount of \$100 or upwards may substitute for the sheriff, or for an assignee under an assignment to which subsection 3 of section 5 applies, a person residing in the county or district in which the assignor resided or carried on business at the time of the assignment.

(2) An assignee may be removed and another substituted, Removal, substitution or addition.
or an additional assignee appointed by the judge.

(3) Where an assignee dies a new assignee may be appointed Death of assignee.
in the manner provided by subsection 2.

(4) Where a new or additional assignee is appointed the Effect on estate.
estate shall vest in him or in him jointly with his co-assignee without a conveyance or transfer, and he shall register a verified copy of the resolution of the creditors or of the order appointing him in the office in which the assignment was registered.

(5) A verified copy of the resolution or of the order may Registration.
be registered in the proper registry or land titles office and the registration thereof shall have the same effect as the registration of a conveyance. R.S.O. 1937, c. 179, s. 10.

11.—(1) Except as in this section is otherwise provided Rights of assignee.
the assignee shall have the exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors or in violation of this Act.

(2) Where a creditor desires to cause any proceeding to Right of creditor in certain cases if assignee refuses.
be taken which, in his opinion, would be for the benefit of the estate, and the assignee under the authority of the creditors or inspectors refuses or neglects to take such proceeding after being required so to do, the creditor shall have the right to obtain an order of the judge authorizing him to take the proceeding in the name of the assignee, but at his own expense and risk, upon such terms and conditions as to indemnity to the assignee as the judge may prescribe, and thereupon any benefit derived from the proceeding shall, to the extent of his claim and full costs, belong exclusively to the creditor instituting the same for his benefit, but if, before such order is obtained, the assignee signifies to the judge his readiness to institute the proceeding for the benefit of the creditors, the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall belong to the estate. R.S.O. 1937, c. 179, s. 11.

12.—(1) In the case of a gift, conveyance, assignment or Following proceeds of property fraudulently transferred.
transfer of any property, real or personal, which is invalid against creditors, if the person to whom the gift, conveyance, assignment or transfer was made shall have sold or disposed of, realized or collected the property or any part thereof, the money or other proceeds may be seized or recovered in any

action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the gift, conveyance, transfer, delivery or payment was made, and such right to seize and recover shall belong not only to an assignee for the general benefit of the creditors of the debtor but, where there is no such assignment, to all creditors of the debtor.

Taking proceeds under execution.

(2) Where there is no assignment for the benefit of creditors, and the proceeds are of such a character as to be seizable under execution, they may be seized under the execution of any creditor and shall be subject to *The Creditors' Relief Act*.

Rev. Stat., c. 78.

Creditor suing on behalf of himself and other creditors.

(3) Where there is no assignment for the benefit of creditors, and whether the proceeds are or are not of such a character as to be seizable under execution, an action may be brought therefor by a creditor, whether an execution creditor or not, on behalf of himself and all other creditors, or such other proceedings may be taken as may be necessary to render the proceeds available for the general benefit of the creditors.

Protection of innocent purchasers.

(4) This section shall not apply as against innocent purchasers of the property. R.S.O. 1937, c. 179, s. 12.

Assignments to take precedence of attachments, etc.

13. An assignment for the general benefit of creditors under this Act shall take precedence of attachments, garnishee orders, judgments, executions not completely executed by payment, and orders appointing receivers by way of equitable execution subject to the lien, if any, of an execution creditor for his costs where there is but one execution in the sheriff's hands or to the lien, if any, for his costs of the creditor, who has the first execution in the sheriff's hands. R.S.O. 1937, c. 179, s. 13.

Waiver of claims by Crown.

14. Where the Crown has a claim in respect of estreated bail against the estate of a person who makes an assignment for the benefit of his creditors, the Lieutenant-Governor in Council may waive any preference in respect of such claim which the Crown has against such estate by virtue of its prerogative right. R.S.O. 1937, c. 179, s. 14.

Amendment by judge.

15. No advantage shall be obtained by any creditor by reason of any mistake, defect or imperfection in any assignment under this Act for the general benefit of creditors if the same can be amended or corrected, and any such mistake, defect or imperfection shall be amended by the judge on the application of the assignee or of any creditor of the assignor, and on such notice to other parties concerned as the judge

shall think reasonable, and the amendment, when made, shall have relation back to the date of the assignment, but not so as to prejudice the rights of innocent purchasers. R.S.O. 1937, c. 179, s. 15.

16.—(1) A notice of the assignment shall forthwith, after the delivery thereof to him or his assent thereto, be published by the assignee at least once in *The Ontario Gazette* and not less than twice in a newspaper having a general circulation in the county or district in which the property assigned is situate.

Publishing
notice of
assignment.

(2) The assignment or a copy thereof shall also, within five days from the execution thereof, be registered by the assignee, together with an affidavit of a witness thereto of the due execution of the assignment, in the office of the clerk of the county or district court of the county or district in which the assignor, if a resident in Ontario, resided at the time of the execution thereof, or if not a resident then in the office of the clerk of the county or district court of the county or district where the personal property so assigned or where the principal part thereof is at the time of the execution of such assignment, and the clerk shall number and enter such assignments and endorse thereon the time of receiving the same, and the same shall be open for the inspection of all persons desiring to inspect the same.

Registering
assignment.

(3) The clerk shall be entitled to the same fees for services as if the assignment had been registered under *The Bills of Sale and Chattel Mortgages Act*.

Fees of
clerk.
Rev. Stat.,
c. 36.

(4) For the purposes of subsection 2 the Provisional County of Haliburton shall be deemed part of the County of Victoria.

Provisional
County of
Haliburton.

17.—(1) If the notice is not published as provided by section 16, or if the assignment is not registered within five days from the delivery thereof to the assignee or his assent thereto, the assignee shall be liable to a penalty of \$10 for each and every day during which the default continues.

Penalty for
neglecting
publication
or registra-
tion.

(2) The burden of proving the time of such delivery or assent shall be upon the assignee.

Onus of
proof of
delivery or
assent.

(3) Where the assignment is made to a sheriff he shall not incur the penalty unless he has been paid or tendered the cost of advertising and of registering the assignment, nor shall he be bound to act under the assignment until his costs in that behalf are paid or tendered to him. R.S.O. 1937, c. 179, s. 17.

Liability of
sheriff.

Compelling
publication
and
registration.

18. If the assignment is not registered, or notice thereof is not published, the judge may, upon the application of any person interested in the assignment, by order enforce the registration of the assignment or the publication of the notice. R.S.O. 1937, c. 179, s. 18.

Omission to
publish, etc.

19. The omission to publish or register as required by section 16 shall not, nor shall any irregularity in the publication of registration, invalidate the assignment. R.S.O. 1937, c. 179, s. 19.

Duty to
call meeting
of creditors.

20.—(1) It shall be the duty of the assignee immediately to inform himself, by reference to the assignor and his records of account, of the names and residences of the assignor's creditors, and, within five days from the date of the assignment, to call a meeting of the creditors for the appointment of inspectors and the giving of directions with reference to the disposal of the estate by mailing prepaid and registered to every creditor know to him a notice calling the meeting to be held in his office or some other convenient place to be named in the notice not later than twelve days after the mailing thereof, and by advertisement in *The Ontario Gazette*.

Other
meetings.

(2) All other meetings to be held shall be called in like manner. R.S.O. 1937, c. 179, s. 20.

Appointment
of inspectors.

21.—(1) The creditors at any meeting may appoint one or more inspectors who shall superintend and direct the proceedings of the assignee in the management and winding up of the estate, and may also at any subsequent meeting for that purpose revoke the appointment of any inspector.

Appointment
of another
inspector.

(2) Where the appointment of an inspector is revoked or where an inspector dies, resigns his office or leaves Ontario the creditors at any meeting may appoint another inspector to take his place.

Inspector
not to
purchase
assets.

(3) An inspector shall not directly or indirectly purchase any part of the stock-in-trade, debts or other assets of the assignor. R.S.O. 1937, c. 179, s. 21.

Meeting of
creditors by
request of
majority
thereof.

22.—(1) In case of a request in writing signed by a majority of the creditors having claims duly proved of \$100 and upwards, computed according to section 24, it shall be the duty of the assignee, within two days after receiving such request, to call a meeting of the creditors for a day not later than twelve days after he receives the request, and in case of default the assignee shall incur a penalty of \$25 for every day after the expiration of the time limited for calling the meeting until it is called.

(2) In case a sufficient number of creditors do not attend the meeting mentioned in section 20, or fail to give directions with reference to the disposal of the estate, the judge may give such directions as he may deem necessary for that purpose. R.S.O. 1937, c. 179, s. 22. ^{Power of judge.}

23. At any meeting of creditors the creditors may vote in person or by proxy authorized in writing, but no creditor whose vote is disputed shall be entitled to vote until he has filed with the assignee an affidavit in proof of his claim, stating the amount and nature thereof. R.S.O. 1937, c. 179, s. 23. ^{Voting at meeting.}

24.—(1) Subject to section 10 all questions at meetings of creditors shall be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows: ^{Scale of votes.}

For every claim of or over \$100 and not exceeding \$200,
one vote.

For every claim of or over \$200 and not exceeding \$500,
two votes.

For every claim of or over \$500 and not exceeding \$1,000,
three votes.

For every additional \$1,000 or fraction thereof, one vote.

(2) No person shall be entitled to vote on a claim acquired after the assignment unless the entire claim is acquired, but this shall not apply to persons acquiring notes, bills or other securities upon which they are liable. ^{Upon claims acquired after assignment.}

(3) In case of a tie the assignee or, if there are two assignees, the assignee nominated for that purpose by the creditors, or by the judge if none has been nominated by the creditors, shall have a casting vote. ^{Casting vote.}

(4) Every creditor in his proof of claim shall state whether he holds any security for his claim or any part thereof, and if such security is on the estate of the assignor, or on the estate of a third person for whom the assignor is only secondarily liable, he shall put a specified value thereon and the assignee, under the authority of the creditors, may either consent to the creditor ranking for the claim after deducting such valuation, or he may require from the creditor an assignment of the security at an advance of ten per cent upon the specified value to be paid out of the estate as soon as ^{Valuing securities.}

the assignee has realized such security, and in such case the difference between the value at which the security is retained and the amount of the gross claim of the creditor shall be the amount for which he shall rank and vote in respect of the estate.

Right to
revalue in
certain cases.

(5) If a creditor's claim is based upon a negotiable instrument upon which the assignor is only indirectly or secondarily liable, and which is not mature or exigible, such creditor shall be considered to hold security within the meaning of this section, and shall put a value on the liability of the person primarily liable thereon as being his security for the payment thereof; but after the maturity of such liability and its non-payment, he shall be entitled to amend his claim and revalue his security.

Where credi-
tor holding
security fails
to value
same.

(6) Where a person claiming to be entitled to rank on the estate holds security for his claim, or any part thereof, of such a nature that he is required by this Act to value the same, and he fails to value such security the judge, upon summary application by the assignee or by any other person interested in the estate, of which application at least three days' notice shall be given to the claimant, may order that, unless a specified value be placed on such security and notified in writing to the assignee within a time to be limited by the order, the claimant shall, in respect of the claim, or the part thereof for which the security is held, in case the security is held for part only of the claim, be wholly barred of any right to share in the proceeds of such estate.

Conse-
quences of
neglect of
order.

(7) If a specified value is not placed on such security, and notified in writing to the assignee according to the exigency of the order, or within such further time as the judge may by subsequent order allow, the claim, or the part, as the case may be, shall be wholly barred as against such estate but without prejudice to the liability of the assignor therefor. R.S.O. 1937, c. 179, s. 24.

Proof of
claim.

25.—(1) Every person claiming to be entitled to rank on the estate shall furnish to the assignee particulars of his claim proved by affidavit and such vouchers as the nature of the case admits.

Limiting
time for
proof of
claim.

(2) Where a person claiming to be entitled to rank on the estate does not, within a reasonable time after receiving notice of the assignment and of the name and address of the assignee, furnish to the assignee satisfactory proofs of his claim as provided by this and the preceding sections, the judge upon summary application by the assignee or by any other person

interested in the estate, of which application at least three days' notice shall be given to the claimant, may order that unless the claim be proved to the satisfaction of the judge within a time to be limited by the order, the claimant shall no longer be deemed a creditor of the estate and shall be wholly barred of any right to share in the proceeds thereof.

(3) If the claim is not so proved within the time so limited, or within such further time as the judge may by subsequent order allow, the same shall be wholly barred, and the assignee shall be at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the assignor therefor. Consequences of neglect to prove claim.

(4) Subsections 2 and 3 shall not interfere with the protection afforded to assignees by section 51 of *The Trustee Act*. Not to interfere with Rev. Stat., c. 400.

(5) A person whose claim has not accrued due shall nevertheless be entitled to prove under the assignment and to vote at meetings of creditors, but in ascertaining the amount of any such claim a deduction for interest shall be made for the time which has to run until the claim becomes due. Creditor may prove claim not due. R.S.O. 1937, c. 179, s. 25.

26.—(1) At any time after the assignee receives from any person claiming to be entitled to rank on the estate proof of his claim notice of contestation of the claim may be served by the assignee upon the claimant. Contestation of claim.

(2) Within thirty days after the receipt of the notice, or within such further time as the judge may allow, an action shall be brought by the claimant against the assignee to establish the claim, and a copy of the writ in the action, or of the summons in case the action is brought in a division court, shall be served on the assignee, and in default of such action being brought and writ or summons served within the time limited the claim to rank on the estate shall be forever barred. Limitation.

(3) The notice by the assignee shall contain the name and place of business of a solicitor upon whom service of the writ of summons may be made, and service upon him shall be deemed sufficient service. Service on solicitor of assignee.

(4) Where prior to the assignment an action has been commenced against the assignor and is pending at the time of the assignment, the assignee may, by notice served upon the plaintiff in such action, require him to proceed, and he shall be bound to proceed in that action to establish his claim, Right of assignee to compel plaintiff to proceed with action against assignor.

instead of bringing an action against the assignee as provided for by subsection 2, and the plaintiff may thereupon apply to the court in which the action is brought for an order adding the assignee as a party defendant in the action, and the assignee may be so added upon such terms as to the costs which may be subsequently incurred as the court or a judge thereof, or the judge making the order, shall direct. R.S.O. 1937, c. 179, s. 26.

Procedure where assignee is satisfied but assignor desires to dispute.

27.—(1) If the assignee is satisfied with the proof adduced in support of a claim, but the assignor disputes the same, the assignor shall do so by notice in writing to the assignee, stating the grounds upon which he disputes the claim, and such notice shall be given within ten days after the assignor is notified in writing by the assignee that he is satisfied with the proof adduced, and not afterwards unless by leave of the judge.

Where assignee does not require action to be brought.

(2) If upon receiving such notice of dispute the assignee does not deem it proper to require the claimant to bring an action to establish his claim he shall notify the assignor in writing of the fact, and the assignor may thereupon, and within ten days of his receiving such notice, apply to the judge for an order requiring the assignee to serve a notice of contestation.

Conditions.

(3) The order shall be made only if, after notice to the assignee, the judge is of opinion that there are good grounds for contesting the claim.

Where decision of assignee shall be final.

(4) If the assignor does not make such an application the decision of the assignee shall, as against him, be final and conclusive.

Decision of judge on validity of claim.

(5) If upon the application the claimant consents in writing the judge may, in a summary manner, decide the question of the validity of the claim.

Intervention by assignor at trial of action.

(6) If an action is brought by the claimant against the assignee the assignor may intervene at the trial, either personally or by counsel, for the purpose of calling and examining or cross-questioning witnesses. R.S.O. 1937, c. 179, s. 27.

Retention of assets in Ontario and deposit of moneys.

28.—(1) No property or assets of an estate assigned under this Act shall be removed out of Ontario without the order of the judge, and the proceeds of the sale of any such property or assets, and all moneys received on account of any estate shall be deposited by the assignee in an incorporated bank within Ontario, and shall not be withdrawn or removed

without the order of the judge, except in payment of dividends and charges incidental to winding up the estate.

(2) An assignee or any person acting in his stead who ^{Penalty.} violates this section shall be liable to a penalty of \$500.

(3) One-half of the penalty shall go to the person suing ^{Application of penalty.} therefor and the other half shall belong to the estate.

(4) In default of payment of the penalty and all costs ^{Imprisonment in default of payment of penalty.} incurred in any action or proceeding for the recovery thereof, within the time limited by the judgment, the court in which the action is brought may order that such assignee or person may be imprisoned for any period not exceeding thirty days, and such assignee or person shall be disqualified from acting as assignee of any estate while such default continues. R.S.O. 1937, c. 179, s. 28.

29. Upon the expiration of one month from the first meet- ^{Accounts to be kept accessible.} ing of creditors, or as soon as may be thereafter, and afterwards from time to time at intervals of not more than three months, the assignee shall prepare, and keep constantly accessible to the creditors, accounts and statements of his doings as such assignee, and of the position of the estate. R.S.O. 1937, c. 179, s. 29.

30. The law of set-off shall apply to all claims made against ^{Set-off.} the estate, and also to all actions instituted by the assignee for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off shall be affected by this or any other Act respecting frauds or fraudulent preferences. R.S.O. 1937, c. 179, s. 30.

31. As large a dividend as can be paid with safety shall ^{Dividends, when to be paid.} be paid by every assignee within twelve months from the date of the assignment, and earlier if required by the inspectors and thereafter a further dividend shall be paid every six months, and more frequently if required by the inspectors until the estate is wound up and disposed of. R.S.O. 1937 c. 179, s. 31.

32. So soon as a dividend sheet is prepared notice thereof ^{Notice of dividend sheet.} shall be given by registered letter to each creditor, enclosing an abstract of receipts and disbursements, showing what interest has been received by the assignee for money in his hands, together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or

has not been made therefor, and after the expiry of eight days from the date of mailing such notice, abstract and dividend sheet, dividends on all claims not objected to within that period shall be paid. R.S.O. 1937, c. 179, s. 32.

Distributing
moneys and
determining
claims.
Rev. Stat.,
c. 78.

33.—(1) The assignee may take the proceedings authorized by section 32 of *The Creditors' Relief Act* to be taken by a sheriff, and in that case sections 32 and 33 of that Act shall apply *mutatis mutandis* to proceedings for the distribution of money and determination of claims arising under an assignment made under this Act, with the substitution of "assignee" for "sheriff"; but this section shall not relieve the assignee from mailing to each creditor the abstract and other information required by section 32 of this Act to be sent to creditors so far as the same is not contained in the list sent by him under section 32 of *The Creditors' Relief Act*.

To what
judge appli-
cation to be
made.

(2) A judge of the county or district court of the county or district where the assignment is required to be registered shall be the judge to whom applications under this section shall be made. R.S.O. 1937, c. 179, s. 33.

Remunera-
tion of
assignee.

34. The assignee shall receive such remuneration as shall be voted to him by the creditors at any meeting called for the purpose after the first dividend sheet has been prepared, or by the inspectors, in case the creditors fail to provide therefor, subject to review by the judge upon complaint of the assignee or of any creditor. R.S.O. 1937, c. 179, s. 34.

Where re-
muneration
not fixed
before the
final
dividend.

35. Where the remuneration of the assignee has not been fixed under section 34 before the final dividend the assignee may insert in the final dividend sheet, and retain as his remuneration, a sum not exceeding five per cent of the cash receipts, subject to review by the judge; but no application by the assignee to review the allowance shall be entertained unless the question of his remuneration has been brought before a meeting of creditors competent to decide the same before the preparation of the final dividend sheet. R.S.O. 1937, c. 179, s. 35.

Remunera-
tion of
inspectors.

36.—(1) An assignee shall not make any payment or allowance to an inspector beyond his actual and necessary travelling expenses in and about his duties as inspector, except under the authority of a resolution of the creditors passed at a meeting regularly called, fixing the amount thereof, and in the notice calling the meeting the fixing of the remuneration of the inspectors shall be specially mentioned as one of the subjects to be brought before the meeting.

(2) An inspector shall not be allowed more than \$4 a day besides actual travelling expenses. R.S.O. 1937, c. 179, s. 36. Limit of allowance.

37.—(1) Upon a resolution passed by a majority vote of the creditors present or represented at a meeting of creditors regularly called, or upon the written request of a majority of the inspectors, or upon an order made by the judge, the assignee may examine upon oath before a master, local master, local registrar, judge of the county or district court, special examiner, official referee or any other person named in the order, the assignor or any person who is or has been his agent, clerk, servant, officer or employee of any kind, touching the estate and effects of the assignor, and as to the property and means he had when the earliest of his debts or liabilities existing at the date of the assignment was incurred, and as to the property and means he still has of discharging his debts and liabilities, and as to the disposal he has made of any property since contracting such debt or incurring such liability, and as to any and what debts are owing to him, and the person examined may be required by the assignee to produce upon such examination any property, book, document or paper in his custody, power or control. Examination of assignor or employees.

(2) Unless otherwise ordered the examination shall take place in the county or district within which the person to be examined resides. Where examination to take place.

(3) The rules and procedure of the Supreme Court as to the examination of a judgment debtor, or any clerk or employee or former clerk or employee of a judgment debtor, shall, so far as may be, apply to an examination held under subsection 1. R.S.O. 1937, c. 179, s. 37. Procedure on examination.

38. Any person who has or is believed or suspected to have in his possession or power any book, document or paper of any kind relating in whole or in part to the assignor, his dealings or property, and who refuses or fails to produce the same for the inspection of the assignee, within four days after demand in writing by the assignee, may by order of the judge be examined before the judge or any of the officers mentioned in section 37 touching such book, document or paper, and he shall be subject to the same consequences, in the case of neglect to attend or refusal to disclose the matters in respect of which he may be examined or to make such production, as are mentioned in section 40. R.S.O. 1937, c. 179, s. 38. Examination of persons having custody of property of assignor.

39. If the assignor does not attend for examination and does not allege a sufficient excuse for not attending or, if attending, he refuses to disclose his property or his trans- When assignor does not attend or refuses to answer questions.

actions respecting the same, or does not make satisfactory answers respecting the same, or if it appears from such examination that the assignor has concealed or made away with his property in order to defeat or defraud his creditors or any of them, the judge may order the assignor to be committed to the common jail of the county or district in which he resides for any period not exceeding twelve months. R.S.O. 1937, c. 179, s. 39.

Compelling
attendance
and pro-
duction of
books.

40. Any person other than the assignor liable to be examined shall be subject to the same consequences, in case of neglect to attend or refusal to disclose the matters in respect of which he may be examined or to make production, as a witness in an action in the Supreme Court. R.S.O. 1937, c. 179, s. 40.

CHAPTER 27

The Athletics Control Act**1. In this Act,**Interpreta-
tion.

- (a) "Commissioner" means Athletics Commissioner;
- (b) "Minister" means such Minister as may from time to time be designated by the Lieutenant-Governor in Council;
- (c) "official" includes examiner, judge, master of ceremonies, legally qualified medical practitioner, referee and time-keeper;
- (d) "person" includes corporation, association, club and any unincorporated organization;
- (e) "professional contest or exhibition" means a professional contest or exhibition of baseball, bicycle riding, boxing, dancing, golf, hockey, jai-alai, lacrosse, motor-cycle riding, physical prowess whether by contortion or otherwise, rowing, rugby, running, skating, whether speed skating or figure skating, soccer, swimming, tennis or wrestling and a professional contest or exhibition of any other sport or game designated by the Lieutenant-Governor in Council. 1947, c. 4, s. 1; 1949, c. 7, s. 1; 1950, c. 4, s. 1.

2. The administration of this Act shall be under the direction and control of the Minister. 1947, c. 4, s. 2. Direction
and control.

3. There shall be an Athletics Commissioner who shall be appointed by the Lieutenant-Governor in Council. 1947, c. 4, s. 3. Athletics
Commis-
sioner.

4.—(1) Every person conducting a professional boxing or wrestling contest or exhibition shall pay to the Minister an amount not less than one per cent and not exceeding five per cent of the gross receipts in respect of such contest or exhibition as shall be determined by the Minister with the approval of the Lieutenant-Governor in Council. 1949, c. 7, s. 2. Tax.

Reduction
of tax.

(2) Where a professional contest or exhibition is not the sole or main attraction offered at any presentation or exhibition for which admission is charged, the Minister may accept such amount as in the circumstances he deems proper in lieu of the percentage of the gross receipts payable under subsection 1. 1947, c. 4, s. 4 (2).

Idem.

(3) If the Minister is satisfied that the entire proceeds of any professional contest or exhibition are for charitable purposes, he may accept such amount as in the circumstances he deems proper in lieu of the percentage of the gross receipts payable under subsection 1. 1948, c. 6, s. 2 (1).

Remission
of tax.

(4) Every person conducting any professional contest or exhibition shall, within three days of the holding of such contest or exhibition, remit to the Minister by registered mail, the amount payable under subsection 1.

Penalty.

(5) Every person who conducts or participates in conducting or holding any professional contest or exhibition and who fails to comply with this section, in addition to the payment of the amounts provided in subsection 1, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than an amount equal to such amounts. 1947, c. 4, s. 4 (3, 4).

Impounding
of boxing
and
wrestling
purses, etc.

5.—(1) Where the Commissioner or any other person charges.

- (a) that any boxing or wrestling contest or exhibition was conducted in violation of this Act or the regulations;
- (b) that any agreement, contract or undertaking with respect to any boxing or wrestling contest or exhibition was entered into in violation of this Act or the regulations; or
- (c) that the conduct of any person connected with or participating in any boxing or wrestling contest or exhibition was in violation of this Act or the regulations or was not in the interest of boxing or wrestling,

the Commissioner may order any person to deliver to him forthwith any moneys which were paid or may be payable in connection with such contest or exhibition and such moneys shall be impounded by him pending the disposition of the charge.

(2) The Minister may direct the Commissioner or any other person to hold an investigation into the charge so made and to report thereon to him, and if in his opinion the charge has been proven, he may declare the moneys impounded to be forfeited, and such moneys shall thereupon become the property of the Crown. ^{Investigation.}

(3) If the Minister does not direct an investigation or if he is of the opinion that the charge has not been proven, he shall order any moneys impounded to be released. ^{Release of impounded moneys.}

(4) Every person who fails to deliver moneys to the Commissioner in pursuance of an order made under subsection 1 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than an amount equal to twice the amount of the moneys ordered to be delivered. 1950, c. 4, s. 2. ^{Penalty.}

6. Where any branch of the Amateur Athletic Union of Canada in Ontario or any league or body connected with amateur sport operating in Ontario, requests the Minister to cause investigation to be held into any matter which the branch, league or body considers should be investigated in the interest of amateur sport in Ontario, the Minister may direct the Commissioner or any other person to hold an investigation. 1947, c. 4, s. 6. ^{Investigation, amateur sports.}

7. For the purposes of an investigation under section 5 or 6, the Commissioner or other person holding such investigation shall possess all the powers which may be conferred upon a commissioner under *The Public Inquiries Act*. 1947, c. 4, s. 7. ^{Powers on investigation. Rev. Stat., c. 308.}

8. The moneys received by the Minister under section 4 together with all moneys received from licence and permit fees, fines and other pecuniary penalties and the impounding of purses or other remuneration shall be paid into the Consolidated Revenue Fund. 1947, c. 4, s. 9; 1949, c. 7, s. 4. ^{Payment into Consolidated Revenue Fund.}

9.—(1) Where moneys payable to the Minister under this Act or the regulations in respect of any professional contest or exhibition or any contest or exhibition of amateur boxing or wrestling are not received by the Minister within one week of the holding of such contest or exhibition, the Minister may direct that the building or other place where such contest or exhibition was held shall not be used for the holding of any professional contest or exhibition or any contest or exhibition of amateur boxing or wrestling until such moneys have been paid to the Minister. ^{Prohibiting use of building.}

Penalty.

(2) Where notice in writing of a direction made under subsection 1 is served upon or sent by prepaid registered mail to the owner, lessee or other person having control over the building or other place, such owner, lessee or other person shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$20 and not more than \$100 in respect of every professional contest or exhibition or contest or exhibition of amateur boxing or wrestling held in such building or at such place during the continuance in force of such direction. 1947, c. 4, s. 11.

**Contracts to
manage
professional
boxers and
wrestlers.**

10. A contract or agreement entered into for the management of any person taking part in professional boxing or wrestling contests or exhibitions, or for the taking part in any such contest or exhibition, shall not be valid or of any force or effect unless it is in writing signed by the parties thereto and approved by the Commissioner and the Commissioner may at any time, by notice in writing to the parties, revoke any approval given by him and thereupon the contract or agreement shall for all purposes be deemed null and void and of no effect. 1947, c. 4, s. 12.

**Powers of
Commis-
sioner.**

11.—(1) The Commissioner may,

- (a) delegate to any person any of the powers or duties conferred or imposed upon him by the regulations;
- (b) designate the officials for any professional contest or exhibition or any amateur boxing or wrestling contest or exhibition and fix the fees that shall be paid to them by the person holding the contest or exhibition.

**Admission
to contests
and exhibi-
tions.**

(2) The Commissioner or any person to whom he has delegated any of his powers or duties shall be admitted without charge to professional contests and exhibitions and amateur boxing and wrestling contests and exhibitions. 1950, c. 4, s. 3.

Regulations.

12.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations,

- (a) prescribing the powers and duties of the Commissioner;
- (b) authorizing the Commissioner,
 - (i) to order any amateur or professional boxing contest or exhibition to be stopped if he deems it necessary,

- (ii) to approve the persons who may take part in professional boxing contests or exhibitions of more than ten three-minute rounds,
 - (iii) to designate the time and place of weighing in for amateur and professional boxers and wrestlers,
 - (iv) to prescribe the time-limit for amateur and professional boxing and wrestling contests and exhibitions,
 - (v) to direct a professional boxing contest or exhibition to be held notwithstanding a boxer under contract to take part therein is overweight,
 - (vi) to settle disputes referred to him by professional boxers and persons holding professional boxing contests or exhibitions,
 - (vii) to permit a substitute for a boxer who is unable or refuses to take part in a professional boxing contest or exhibition,
 - (viii) to determine the announcements that may be made from the ring in amateur and professional boxing and wrestling contests and exhibitions in addition to those authorized by the regulations;
- (c) prescribing the equipment to be used for and the rules applicable to the conduct of amateur and professional boxing and wrestling contests and exhibitions including the appointment and duties of the officials of the contests and exhibitions, the definition of fouls and the manner of determining a winner;
- (d) providing for the issuing of licences and permits for the holding of amateur and professional boxing and wrestling contests and exhibitions and for the suspension and cancellation of such licences and the cancellation of such permits;
- (e) providing for the licensing of amateur and professional boxers and wrestlers, managers of professional boxers and wrestlers and referees, seconds and other officials officiating at amateur or professional boxing or wrestling contests or exhibitions and for the suspension and cancellation of such licences;
- (f) providing for the payment of fees for licences and permits and the manner of collecting such fees;

- (g) providing for payment to the Minister of a fee or charge by way of a licence fee or otherwise in respect of the holding of any amateur boxing or wrestling contest or exhibition and for the manner of collecting such fee or charge;
- (h) authorizing the Commissioner to levy fines or other pecuniary penalties against officials or against persons who are the holders or who by the regulations are required to be the holders of licences under this Act, for failure to comply with any provision of this Act or of the regulations;
- (i) prescribing the forms of contracts to be used in connection with the services and management of professional boxers and wrestlers;
- (j) prescribing the duties of persons holding amateur or professional boxing or wrestling contests or exhibitions;
- (k) prescribing the security to be furnished to the Commissioner by persons holding professional boxing or wrestling contests or exhibitions to ensure payment of officials and contestants and the amount payable to the Minister under section 4;
- (l) regulating the holding and conduct of professional contests or exhibitions of dancing, swimming, rowing and tennis;
- (m) prescribing the classes of persons who may take part in amateur and professional boxing and wrestling contests and exhibitions;
- (n) defining "amateur" and "professional" for the purposes of this Act and the regulations;
- (o) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1947, c. 4, s. 13 (1); 1950, c. 4, s. 4 (1, 2).

Penalty.

(2) Every person who fails to comply with any provision of this Act or of the regulations shall be guilty of an offence and on summary conviction shall be liable, if no other penalty is provided, to a penalty of not less than \$20 and not more than \$1,000.

Duplication
of
penalties.

(3) Where a fine or other pecuniary penalty has been levied by the Commissioner under the regulations and such fine or penalty has been paid, no proceedings shall be taken under *The Summary Convictions Act* in respect of the same matter. 1950, c. 4, s. 4 (3).

Rev. Stat.,
c. 379.

CHAPTER 28

The Audit Act

1. The Lieutenant-Governor in Council may appoint three ^{Treasury} members of the Executive Council to be a board to be called ^{Board.} the "Treasury Board". 1950, c. 5, s. 1.

2.—(1) The Lieutenant-Governor in Council may appoint ^{Appointment} an officer to be called the "Auditor". ^{of Auditor.}

(2) The Auditor shall be paid a salary of not less than ^{Salary.} \$6,000 per annum, which shall be charged to and paid out of the Consolidated Revenue Fund.

(3) The salary of the Auditor shall not be reduced except ^{Idem.} on address of the Assembly. 1950, c. 5, s. 2.

3. The Auditor shall hold office during good behaviour, ^{Tenure of} but shall be removable for cause by the Lieutenant-Governor ^{office.} on address of the Assembly. 1950, c. 5, s. 3.

4. The Lieutenant-Governor in Council, upon the recom- ^{Assistant} mendation of the Auditor, may appoint an officer to be ^{Auditor.} called the "Assistant Auditor" who, in the absence of the Auditor owing to illness or otherwise, or in case of a vacancy in the office, shall during such absence or vacancy possess the powers and perform the duties of the Auditor. 1950, c. 5, s. 4.

5. The Lieutenant-Governor in Council, upon the recom- ^{Appointment} mendation of the Auditor, may appoint to the staff of the ^{of officers.} Auditor such officers, clerks and other persons as the Auditor may deem necessary. 1950, c. 5, s. 5.

6. The Auditor may, from time to time, make orders and ^{Orders and} rules for the conduct of the internal business of his office and ^{rules, how} may suspend any member of his staff. 1950, c. 5, s. 6.

7. The Auditor may delegate to any member of his staff ^{Delegation} authority to perform any duty, act or function which by this ^{of} ^{authority.} Act he is required to do other than reporting to the Assembly or to the Lieutenant-Governor in Council. 1950, c. 5, s. 7, *amended.*

Form of
departmental
accounts.

8. The Treasury Board may prescribe the manner in which each department of the public service shall keep its accounts and may prescribe forms and procedures for the guidance of persons accounting for public moneys in making up and rendering their accounts for examination. 1950, c. 5, s. 8.

Information
and access
to records.

9. Every department of the public service shall furnish the Auditor with such information regarding its powers, duties, activities, organization, financial transactions and methods of business as he may from time to time require, and the Auditor shall have access to all books, accounts, financial records, reports, files and all other papers, things or property belonging to or in use by the department and necessary to facilitate the audit and shall be afforded every facility for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians. 1950, c. 5, s. 9.

Respon-
sibility of
ministers
and officers,
and audit by
departments.

10. Nothing in this Act shall be construed to affect the responsibility of any minister, deputy minister, departmental officer or other person charged with the administration of public moneys, and the responsibility for the conduct of the financial business of each department shall rest with the head of the department, and before accounts are recommended to the Treasurer for payment they shall be checked and examined in detail and vouched as correct in every respect and allowed and passed by the proper departmental officers. 1950, c. 5, s. 10.

Auditor to
examine
expenditures.

11.—(1) Except when otherwise provided, the Auditor shall examine on behalf of the Assembly all accounts of expenditure of public moneys out of the Consolidated Revenue Fund, whether held in trust or otherwise.

Purpose and
authority
for expendi-
ture to be
observed.

(2) The Auditor shall satisfy himself that every account requisitioned for payment is in accordance with the terms and conditions of the grant to which the account relates.

Auditor may
admit
vouchers and
examine in
detail if
requested.

(3) The Auditor after satisfying himself that a voucher has been examined and certified as correct by the department concerned, may, in his discretion and having regard to the character of the departmental examination, admit it as satisfactory, but if the Treasury Board desire any voucher to be examined in greater detail, the Auditor shall do so. 1950, c. 5, s. 11.

Accom-
modation
for staff.

12. The Auditor may station one or more members of his staff in any department of the public service to enable him to carry out his duties under this Act more effectively, and the

department shall provide such accommodation as may be required for the purpose. 1950, c. 5, s. 12.

13.—(1) Except as provided in this section or section 14, ^{Issue of cheques.} no cheque for the payment of public money shall issue without the certificate of the Auditor that there is legislative authority for the payment.

(2) When, upon an application for a cheque, the Auditor ^{Upon advice of Attorney-General.} has reported that there is no legislative authority, then upon the written opinion of the Attorney-General or Deputy Attorney-General that there is legislative authority, citing it, the cheque may be issued.

(3) If, when the Legislature is not in session, any accident ^{Special warrants.} happens to any public work or building which requires an immediate outlay for the repair or renewal thereof, or any other occasion arises when any expenditure not foreseen or provided for by the Legislature is urgently required for the public good, then upon the report of the Treasurer that there is no legislative provision, and of the minister having charge of the service in question that the necessity is urgent and for the public good, the Lieutenant-Governor in Council may order a special warrant to be prepared, to be signed by the Lieutenant-Governor for the issue of the amount estimated to be required which shall be placed by the Treasurer to a special account, against which cheques may issue as may be required.

(4) The authority to make an expenditure under a special ^{Lapse of special warrants.} warrant shall lapse and any unexpended balance be written off at the end of the fiscal year in which the warrant is given, provided that during the period of 30 days next following the end of the fiscal year there may be paid an amount not exceeding the unexpended balance of such warrant for the purpose of discharging any debt that was incurred during such fiscal year, and such expenditure may be charged in the accounts of such fiscal year.

(5) When the Auditor has refused to certify that a cheque ^{Reference to Treasury Board.} may issue, the minister of the department requisitioning the cheque may upon notice to the Auditor refer the matter to the Treasury Board and thereupon the correspondence in the case together with a memorandum stating,

- (a) the legislative authority under which it is considered the expenditure may be made;
- (b) the objections taken by the Auditor; and
- (c) the answer to such objections,

shall be submitted by the minister in charge of the department to the Treasury Board and the Board may in its discretion order the issue of the cheque. 1950, c. 5, s. 13.

Payment for special cases.

14.—(1) The certificate or order of the Attorney-General or Deputy Attorney-General that any sum of money is required to be paid out of the Consolidated Revenue Fund on account of the investigation, detection or punishment of any offence against the laws of Ontario or of Canada, or on account of special services or disbursements in connection with inquests, or any purpose connected with the administration of justice in either civil or criminal matters, shall be sufficient authority for the issuing of a cheque by the Treasurer of Ontario for the amount named in such certificate or order, and the officer or other person to whom the cheque is issued shall account to the Attorney-General for the proper disbursement of the amount received by such officer or other person.

Certificate that moneys accounted for.

(2) The certificate of the Attorney-General or Deputy Attorney-General that any moneys received by any officer or other person under this section have been duly accounted for shall be final and conclusive and the account shall not be subject to any further examination. 1950, c. 5, s. 14.

Counter-signing cheques.

15. Every cheque issued by the Treasurer shall be counter-signed by the Auditor. 1950, c. 5, s. 15.

Accounts for work, etc., to be certified.

16.—(1) No payment shall be authorized by the Auditor in respect of services, publications, grants, work or material unless, in addition to any other voucher or certificate that may be required the accounts accompanying the requisition for payment bear the certificate of an official who has knowledge of the facts to the effect that the person has been in attendance, that the publication is being received and is billed at scheduled rates, that any relevant regulations have been complied with, that the work has been performed or the material supplied, as the case may be, and that the price charged is according to contract, or if not covered by contract, is fair and just.

Approval by Order in Council.

(2) Notwithstanding any provision of this Act, the Auditor, before authorizing the payment of any public money, may require the matter to be referred to the Lieutenant-Governor in Council for his approval, and unless the approval of the Lieutenant-Governor in Council is given such payment shall not be made. 1950, c. 5, s. 16.

Allowances for travelling and living expenses.

17. The Lieutenant-Governor in Council may make regulations fixing the scale of allowances for the travelling and

living expenses to be allowed to any person employed in or in connection with any part of the public service. 1950, c. 5, s. 17.

18.—(1) The Public Accounts shall cover the period from ^{Fiscal year.} the commencement of business on the 1st day of April in one year to the close of business on the 31st day of March in the next year, which period shall constitute the fiscal year.

(2) All estimates submitted to the Legislature shall be for ^{Estimates.} services coming in course of payment during the fiscal year.

(3) All balances of appropriations that remain unexpended ^{Lapse of} at the end of a fiscal year shall lapse and be written off, ^{appropriations.} provided that during the period of 30 days next following the end of such fiscal year there may be paid out of any appropriation an amount not exceeding the unexpended balance of such appropriation for the purpose of discharging any debt that was incurred during such fiscal year, and such expenditure may be charged in the accounts of such fiscal year, but any debts that remain unpaid at the end of the period of 30 days next following the end of such fiscal year shall be paid out of the appropriation for the ensuing fiscal year. 1950, c. 5, s. 18.

19. The Public Accounts shall be prepared under the ^{Preparation} direction of the Auditor and shall be delivered to the ^{of Public} Lieutenant-Governor in Council and laid before the Assembly ^{Accounts.} within the first 10 days of the first session held in the following calendar year. 1950, c. 5, s. 19.

20. The Treasury Board may alter the period at or to ^{Treasury} which any person accountable for public moneys is required ^{Board may} to render any account or to make any return, whenever in ^{alter date} their opinion the alteration will facilitate the preparation of ^{of returns.} the Public Accounts or estimates, anything in any Act to the contrary notwithstanding. 1950, c. 5, s. 20.

21. If a difference arises between the Auditor and the ^{Determina-} minister of any department respecting the appropriation or ^{tion of} account to which an authorized expenditure should be charged, ^{differences} such difference may be referred by the minister to the Treasury ^{as to charges} Board, and the Board shall determine in what manner and to ^{against ap-} what appropriation or account such expenditure shall be ^{propriations.} charged. 1950, c. 5, s. 21.

22. Notwithstanding anything in this Act, whenever the ^{Payments} Assembly has concurred in the report of the Committee of ^{authorized} Supply recommending the passing of any estimates, the ^{by Assembly.} Lieutenant-Governor in Council may authorize the payment

of any items of expenditure so concurred in. 1950, c. 5, s. 22.

Treasury
Board
orders.

23. Where an appropriation is exhausted or is insufficiently provided for and the public interest or the urgent requirements of the public service necessitate further payments, then upon the report to the Treasury Board of the minister having charge of the appropriation as to the necessity for further payments and the reasons why the appropriation is insufficient and the amount estimated to be required, the Board may make an order for the issue of such amount as it deems proper which amount shall be placed to the credit of the appropriation against which cheques may issue as may be required. 1950, c. 5, s. 23.

Examination
of regulations
and
procedures.

24.—(1) The Auditor shall, on behalf of the Assembly, examine all accounts of receipts of public moneys forming part of the Consolidated Revenue Fund whether held in trust or otherwise in order to ascertain that adequate regulations and procedures are in operation to secure an effective check on the assessment, collection and allocation of revenue.

Examination
of receipts.

(2) The Auditor shall satisfy himself as to the correctness of the accounts mentioned in subsection 1. 1950, c. 5, s. 24.

Annual
report of
Auditor.

25.—(1) The Auditor shall make an annual report to the Assembly respecting the fiscal year then closed,

- (a) as to his examination of accounts of receipts and payments of public moneys;
- (b) as to his examination of the balance sheet and related schedules shown in the Public Accounts, in which he shall state whether they were compared with the books of account and financial records, and if he has obtained all the information and explanations he has required, and whether, in his opinion, they are properly drawn up so as to present fairly the financial position of the Province;
- (c) as to all special warrants and cheques for the issue of which he has refused to certify, citing the date and the amount of any expenditures incurred in consequence thereof;
- (d) as to all orders of the Treasury Board issued for the authorization of expenditure in excess of appropriations, citing the date, the amount authorized and the amount expended;

(e) as to any important change in the extent or character of any examination made by him; and

(f) as to such other matters as he desires to bring to the attention of the Assembly.

(2) The report of the Auditor shall be delivered to the Lieutenant-Governor in Council and laid before the Assembly within the first 10 days of the first session held in the following calendar year. 1950, c. 5, s. 25. ^{Tabling report.}

26. Nothing in this Act shall be construed to require the Auditor to examine or report upon the accounts of any agency of the Crown if the Lieutenant-Governor in Council, in pursuance of statutory authority in that behalf, has designated another auditor to examine and report upon the accounts of such agency. 1950, c. 55, s. 26. ^{Audit of Crown agencies.}

27. The Auditor may examine any person on oath on any matter pertinent to any account submitted to him for examination, and such oath may be administered by him to any person whom he desires to examine. 1950, c. 5, s. 27. ^{Auditor may examine on oath.}

28.—(1) Every person, on the termination of his charge of any account or, in the case of his death, his representatives, shall forthwith pay over any balance of public money then due to the Crown in respect of such charge, to the public officer authorized to receive the same. ^{Recovery of balances of public moneys.}

(2) When it appears to the Auditor that any amount of public money has been improperly or unnecessarily retained by any person, he shall report the circumstances to the Treasurer of Ontario, and the Treasurer shall take such measures as he deems expedient for the recovery, by suit or otherwise, of such amount which shall be recoverable with interest thereon a five per cent per annum for such period of time as the Treasurer deems proper. 1950, c. 5, s. 28. ^{Idem.}

29. The Auditor may authorize the use of a facsimile of his signature or a facsimile of the signature of any officer or clerk authorized to sign for him. 1950, c. 5, s. 29. ^{Facsimile signatures.}

30. The Treasurer of Ontario may pay out of the Consolidated Revenue Fund accounts for legislative and departmental printing, paper and stationery and other supplies delivered to the King's Printer, but the amount of such deliveries remaining on hand and in the course of distribution shall not exceed in any fiscal year the sum of \$350,000. 1950, c. 5, s. 30. ^{Authority for payment of accounts for printing, stationery, etc.}

CHAPTER 29

The Auxiliary Classes Act

1. In this Act,

Interpre-
tation.

- (a) "board" means a board of education, board of high school trustees, board of public school trustees and board of separate school trustees;
- (b) "regulations" means regulations made by the Minister of Education under this Act and *The Department of Education Act*. R.S.O. 1937, c. 358, s. 1; 1950, c. 6, s. 1. Rev. Stat.,
c. 94.

2. Subject to the regulations, a board may establish and conduct classes for children who, not being persons whose mental capacity is incapable of development beyond that of a child of normal mentality at eight years of age, are from any physical or mental cause unable to take proper advantage of the public, separate, high or vocational school courses. R.S.O. 1937, c. 358, s. 2; 1947, c. 6, s. 1; 1950, c. 6, s. 2. Classes
which may
be
established.

3. A board may establish day classes in oral speech and lip-reading to accommodate all the deaf children within its jurisdiction, not being persons whose mental capacity is incapable of development beyond that of a child of normal mentality at eight years of age, provided that any child who is under eleven years of age on the 1st day of September in any year may, subject to the regulations respecting admission thereto, attend The Ontario School for the Deaf. 1950, c. 6, s. 3. Classes for
deaf
children.

4.—(1) For the purposes of section 2, the board may, subject to the approval of the Minister of Education, Powers of
board.

- (a) acquire a site and erect thereon such buildings as may be suitable for the education and training of the pupils;
- (b) establish such courses of instruction and training as may be best adapted to secure the mental and physical development of the pupils;

- (c) appoint such teachers and special instructors in ordinary learning or in any useful and beneficial occupation as the board may think proper;
- (d) provide in connection with the classes in the same or a separate building a suitable residence and home for the pupils or such of them as in the judgment of the board, subject to the approval of the Inspector of Auxiliary Classes, can be more suitably provided for in such residence, and engage such officers and servants as may be deemed proper for the oversight and care of the pupils in the residence. R.S.O. 1937, c. 358, s. 3 (1).

Acquiring site, etc., in adjoining municipality.

- (2) With the approval of the Minister, a site may be acquired and buildings erected thereon in an adjoining township, and for that purpose the board shall have and may exercise within such township the like powers as within the municipality for which the board is constituted. R.S.O. 1937, c. 358, s. 3 (2); 1950, c. 6, s. 4.

Power of city over 200,000 to acquire site and erect buildings.

- (3) With the approval of the Minister, the council of a city having a population of not less than 200,000 may acquire land in the municipality, or elsewhere, or may set aside land already owned by the corporation, or any land acquired or held for industrial farm purposes, as a site or sites, and may erect suitable buildings thereon for the purposes of subsection 1, but any rates levied for the aforesaid purposes shall be levied on the property of public school supporters only. R.S.O. 1937, c. 358, s. 3 (3).

Duty of board as to religious instruction and worship.

- 5. It shall be the duty of a board where a residence is established to provide for the due instruction of the pupils in religion by the clergymen or ministers of the respective churches or religious denominations to which they belong, and for their attendance at religious worship. R.S.O. 1937, c. 358, s. 4.

Pupils to be wards of the board.

- 6. Where a board establishes a residence under this Act, every pupil admitted thereto shall be a ward of the board and shall be subject to the control and custody of the board during school age and for such further period, but not after reaching the age of twenty-one years, as the board, subject to the approval of the Inspector of Auxiliary Classes, may deem advisable. R.S.O. 1937, c. 358, s. 5.

Admission.

- 7.—(1) Subject to the regulations, pupils shall be admitted to auxiliary classes upon the report of a board consisting of the principal of the school, the school medical inspector and

another school inspector or the chief school inspector, as the case may be, of which board the principal shall be the chairman, approved by the Inspector of Auxiliary Classes.

(2) Pupils may be admitted to auxiliary classes from other municipalities upon such terms as may be permitted or prescribed by the regulations. Admission from other municipalities.

(3) The fees for instruction and for board and lodging shall be payable by the parents or guardians of the pupils, as may be fixed by the board, with the approval of the Minister of Education. R.S.O. 1937, c. 358, s. 6. Fees.

8. Where a board has established auxiliary classes under this Act, it shall be its duty to provide for the proper supervision of the health and treatment of every pupil attending the classes and for proper medical treatment of every pupil who appears to the principal or inspector to require the same. R.S.O. 1937, c. 358, s. 7. Supervision of health, etc., of pupils.

9. The board may direct the school medical inspector or such other officer as the board may appoint to visit pupils in their homes and to consult and advise with their parents as to their treatment and the conditions which will best enable the pupils to attain the greatest possible degree of intelligence and education. R.S.O. 1937, c. 358, s. 8. Visiting pupils in their homes.

10. Subject to the regulations, the board may provide for the transportation of pupils to and from the classes, and may pay for the same out of the funds provided under section 11. R.S.O. 1937, c. 358, s. 9. Transportation of pupils.

11.—(1) The moneys required by the board for the carrying out of the objects of this Act shall be raised and levied in the same manner as for the erection, establishment, improvement or maintenance of the public or separate schools under the control of the board. Raising money for classes.

(2) The moneys required for the purposes of subsection 3 of section 4 shall be raised and levied in the same manner as for the erection, establishment, improvement or maintenance of public schools under the control of the board. R.S.O. 1937, c. 358, s. 10. Raising money for certain purposes.

12.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Minister of Education may from time to time make regulations for the administration and enforcement of this Act and for the establishment, organization, government, examination and inspection of auxiliary Regulations.

classes, the admission and dismissal of pupils, the duration of their term of residence, and for prescribing the accommodation and equipment of school houses, residences and buildings and the arrangement of school premises for auxiliary classes.

Inspector.

(2) The regulations may provide for the appointment of a duly qualified medical practitioner who may be an officer of any department of the Government to be Inspector of Auxiliary Classes and may define the duties and powers of the Inspector. R.S.O. 1937, c. 358, s. 11.

Apportion-
ment of
grant.

13. Subject to the regulations, the Minister shall annually apportion among auxiliary classes all sums of money appropriated as a special grant therefor. R.S.O. 1937, c. 358, s. 12.

CHAPTER 30

The Bailiffs Act

1. In this Act,

Interpre-
tation.

- (a) "bailiff" means any person acting or holding himself out as being prepared to act for or on behalf of any other person in the seizure and sale or seizure only of chattels, or in any eviction, or the collection of rent or taxes by distress, or the repossession of goods or chattels under a conditional sale or lien contract, hire purchase agreement, chattel mortgage or other form of security;
- (b) "certificate of qualification" means a certificate of qualification issued under this Act;
- (c) "county" includes united counties and provisional judicial district;
- (d) "county court" includes district court. 1941, c. 6, s. 1.

2.—(1) No person shall act as a bailiff unless he is the holder of a certificate of qualification. Certificate required.

(2) Every person who is the holder of a certificate of qualification may act as a bailiff in any part of Ontario. 1941, c. 6, s. 2. Scope of authority.

3.—(1) Every application for a certificate of qualification shall be made in writing to the clerk of the county court of the county in which the applicant intends to carry on business as a bailiff and shall state, Application for certificate.

- (a) the name and place of residence of the applicant;
- (b) the place where the applicant intends to carry on business;
- (c) the qualifications of the applicant and his experience as a bailiff;
- (d) any circumstances indicating that a bailiff is needed for the public convenience in the place where the applicant intends to carry on business as a bailiff;

- (e) whether the applicant has previously held a certificate of qualification and, if so, the county in which the certificate was issued; and
- (f) whether any certificate of qualification at any time held by the applicant has been cancelled and, if so, the date of and the name of the judge who directed the cancellation and the reasons therefor.

Examination
of
applicant.

(2) Upon receiving an application the clerk of the county court shall arrange an appointment with the judge of the county court for the examination of the applicant and shall notify the applicant of the time and place of such appointment by prepaid registered mail.

Certification
of
application.

(3) If upon the examination of the applicant the judge finds him qualified to act as a bailiff and is of opinion that a bailiff is needed for the public convenience in the place where the applicant intends to carry on business as a bailiff, he shall so certify upon the application and forward the application to the clerk of the county court. 1941, c. 6, s. 3.

Issue and
filing of
certificate.

4.—(1) Upon receiving an application certified by the judge as in subsection 3 of section 3 provided, the county court clerk shall,

- (a) issue a certificate of qualification to the applicant;
- (b) file the application and judge's certificate in the files of his office; and
- (c) record the issue of the certificate of qualification in a book kept for that purpose.

Change of
address.

(2) Every holder of a certificate of qualification shall forthwith report every change of his address to the clerk of the county court from which his certificate of qualification was issued. 1941, c. 6, s. 4.

Cancellation
of
certificate.

5.—(1) A judge of any county court may direct the clerk of any county court from which a certificate of qualification has been issued to cancel such certificate and every such direction shall be accompanied by a statement of the reason for directing the cancellation.

Notice and
recording of
cancellation.

(2) Upon the receipt of a direction made under subsection 1, the county court clerk shall,

- (a) send a notice of the cancellation of the certificate of qualification to the holder thereof by prepaid

registered mail at the last address furnished by him to the clerk of the county court;

- (b) file the direction and statement of reasons accompanying it with the application and judge's certificate; and
- (c) record the cancellation in the book kept for recording the issue of certificates of qualification.

(3) Upon compliance with clause *a* of subsection 2 a certificate shall be deemed to be cancelled. When certificate deemed to be cancelled.

(4) Nothing in this section shall prevent the making of a further application for a certificate of qualification. 1941, c. 6, s. 5. Further application.

6. This Act shall not apply to any person appointed as a bailiff under *The Division Courts Act* or to any person acting as a sheriff's bailiff. 1941, c. 6, s. 6. When Act not to apply. Rev. Stat., c. 106.

7. Nothing in this Act shall affect the right of a municipal council to pass by-laws for licensing, regulating and governing bailiffs under *The Municipal Act*. 1941, c. 6, s. 7. Right of municipal councils. Rev. Stat., c. 243.

8. Every person who violates any of the provisions of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. 1941, c. 6, s. 8. Penalty.

9. The Lieutenant-Governor in Council may, Regulations.

- (a) make regulations respecting applications for certificates, examination of applicants, the issue and cancellation of certificates, and respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
- (b) prescribe forms;
- (c) prescribe fees payable under this Act. 1941, c. 6, s. 9.

CHAPTER 31

The Barristers Act

1. In this Act, "Society" means The Law Society of Upper Canada. R.S.O. 1937, c. 222, s. 1. Interpretation.

2. The benchers of the Society may make such rules, regulations or by-laws as shall to them seem necessary and proper touching the call or admission of any persons, being British subjects, to practise at the Bar of His Majesty's courts in Ontario and such persons and no others shall be entitled to practise within the said courts. R.S.O. 1937, c. 222, s. 2. Benchers may make rules as to admission of barristers.

3.—(1) Any person who has been duly admitted and enrolled as a solicitor of the Supreme Court and who has been in actual practice for ten years or more before filing his application for call shall be entitled to be called to the Bar without any examination and may be admitted to practise at the Bar of His Majesty's courts in Ontario. Admission of solicitors as barristers after 10 years practice.

(2) Any person who has been duly admitted and enrolled as a solicitor of the Supreme Court and who has been in actual practice for five or more years but less than ten years before filing his application for call shall be entitled to be called to the Bar on passing such examination as may be prescribed by the Society for such cases and may be admitted to practise at the Bar of His Majesty's courts in Ontario. Idem, after 5 years practice.

(3) For the purpose of this section a solicitor holding any office in the Supreme Court to which he is appointed by the Crown, shall be deemed to have been in actual practice within the meaning of this Act while holding such office. Solicitors holding office in Supreme Court.

(4) Notice of the intention of a candidate to apply for call under this section shall be sufficient if written notice is given to the secretary of the Society as in the case of a student-at-law for call, and the notice of presentation to convocation shall be signed by a barrister practising in the county or district in which such candidate resides, and shall certify that the candidate is, in his opinion, a fit and proper person to be called to the Bar. Notice of application.

(5) Every such solicitor, before being called to the Bar, shall pay such fees only as are paid on call to the Bar in ordinary cases. R.S.O. 1937, c. 222, s. 3. Fees.

Call of
Minister of
Justice or
Solicitor-
General.

4. Any person who is or has been Minister of Justice of Canada or Solicitor-General of Canada shall be entitled to be called to the Bar of Ontario without complying with any of the rules of the Society as to admission, examinations, payment of fees or otherwise, and shall thereupon be entitled to practise at the Bar of His Majesty's courts in Ontario. R.S.O. 1937, c. 222, s. 4.

Who may
act as
barrister.

5.—(1) Unless called and admitted to practise at the Bar of His Majesty's courts in Ontario, no person shall act as a barrister in any court of civil or criminal jurisdiction or before any justice of the peace, or hold himself out or represent himself to be entitled to practise at the Bar of His Majesty's courts in Ontario.

Penalty.

(2) Everyone who violates subsection 1 shall be guilty of an offence and shall be liable to a penalty of not more than \$100 for a first offence and not more than \$200 for a second or subsequent offence.

Recovery of
penalties.

Rev. Stat.,
c. 379.

(3) The penalties imposed by this section may be recovered in the manner provided by *The Summary Convictions Act* or upon application by the Society to a judge of the Supreme Court by originating notice.

Where
proceedings
taken under
subs. 3.

(4) Where proceedings by originating notice are taken under subsection 3 the rules of practice of the Supreme Court shall apply.

Order of
judge.

(5) The judge upon finding that any person has violated subsection 1 may, in addition to ordering payment of the penalties, make an order enjoining him from practising or holding himself out as being entitled to practise at the Bar of His Majesty's courts in Ontario.

Enforcement
of order.

(6) Any order made under this section may be enforced in the same manner as any other order or judgment of the Supreme Court and may be varied or discharged upon an application made by originating notice.

Application
of section.

(7) This section shall be read and construed subject to any statute which authorizes the appearance of a person other than a barrister in court.

Penalties,
to whom
paid.

(8) The penalties recovered under this section shall be paid to the Treasurer of Ontario. 1944, c. 58, s. 1.

Appointment
of King's
Counsel.

6. The Lieutenant-Governor may by letters patent under the Great Seal, appoint from the members of the Bar of

Ontario such persons as he may deem proper to be, during pleasure, provincial officers under the name of "His Majesty's Counsel learned in the law" for Ontario. R.S.O. 1937, c. 222, s. 5.

7. The disbarment of a barrister who holds an appointment as one of His Majesty's Counsel Learned in the Law shall have the effect of revoking such appointment. 1946, c. 4, s. 1. Disbarment revokes K.C. appointment.

8. The following members of the Bar of Ontario shall have precedence in the courts of Ontario in the following order: Order of precedence at the Bar.

1. The Minister of Justice of Canada.
2. The Attorney-General for Ontario.
3. The members of the Bar who have filled the office of Minister of Justice of Canada or Attorney-General for Ontario, according to seniority of appointment. R.S.O. 1937, c. 222, s. 7.

9. The Lieutenant-Governor, by letters patent under the Great Seal, may grant to any member of the Bar a patent of precedence in the courts of Ontario. R.S.O. 1937, c. 222, s. 8. Patents of precedence.

10. King's Counsel for Ontario shall have precedence in the courts according to seniority of appointment unless otherwise provided in the letters patent. R.S.O. 1937, c. 222, s. 9. Precedence of King's Counsel.

11. The remaining members of the Bar shall, as between themselves, have precedence in the courts in the order of their call to the Bar. R.S.O. 1937, c. 222, s. 10. Precedence of other members of the Bar.

12. Nothing in this Act shall affect or alter any rights of precedence which appertain to any member of the Bar when acting as counsel for His Majesty, or for any Attorney-General of His Majesty, in any matter depending in the name of His Majesty or of the Attorney-General before the courts, but such right and precedence shall remain as if this Act had not been passed. R.S.O. 1937, c. 222, s. 11. Crown Counsel.

CHAPTER 32

The Beach Protection Act

1. In this Act,

Interpre-
tation.

- (a) "licence" means licence issued under this Act;
- (b) "Minister" means Minister of Mines;
- (c) "regulations" means regulations made under this Act;
- (d) "sand" includes earth, gravel and stone. 1946, c. 5, s. 1.

2.—(1) The Minister may issue licences for the taking of sand from the bed, bank, beach, shore or waters of any lake, river or stream or from any bar or flat in any lake, river or stream or adjoining any channel or entrance to any lake, river or stream in accordance with the regulations, and may suspend or cancel any licence.

Issue and
revocation
of licence.

(2) Each licence shall be effective only in the geographical area defined therein, and shall contain such particular terms and conditions as to its operation as the Minister directs.

Operation
of licence.

3.—(1) No person, unless he is the holder of a licence, shall take or carry away in any boat, vessel, craft, cart, truck or other conveyance, or otherwise transport by land or water or remove by drag-line or other mechanical device, any sand from a bed, bank, beach, shore, waters, bar or flat mentioned in subsection 1 of section 2 whether or not such bed, bank, beach, shore, waters, bar or flat is owned by such person.

Prohibition
against
taking sand.

(2) Subsection 1 shall not apply to the removal of sand by a municipality for municipal uses or by a *bona fide* resident of Ontario provided that such sand is for his personal use and not for resale or for use for commercial or industrial purposes. 1946, c. 5, s. 3.

Exception.

4. Subject to subsection 2 of section 3, no person shall go upon any bed, bank, beach, shore, waters, bar or flat mentioned in subsection 1 of section 2 for the purpose of removing

Being
present to
remove
sand.

or assisting to remove any sand therefrom except under the authority of a licence. 1946, c. 5, s. 4.

Having sand
unlawfully
taken on
vessel.

5. No person shall have on board his vessel or on a vessel in his possession or control, any sand taken contrary to this Act. 1946, c. 5, s. 5.

Issue of
search
warrant.

6.—(1) Where any person makes oath before a justice of the peace that he has reason to believe and does believe that sand, in respect of which a violation of section 3, 4 or 5 has been committed, is on board any vessel, or at any place, the justice of the peace shall issue a search warrant directed to any sheriff, police officer, constable or bailiff, who shall forthwith proceed to search the vessel or place and if any sand is found thereon or thereat, he shall seize it and the vessel, if any, in which it is contained, and shall keep them secure until final action as hereinafter provided is had thereon.

Prosecution.

(2) The owner, master or person in possession of the vessel, or person in possession of sand shall without further information laid be summoned forthwith by the justice who issued the warrant to appear before a magistrate, and if such owner, master or person in possession fails to appear, or if it is shown to the satisfaction of the magistrate that a violation has been committed, the magistrate may convict the owner, master or person in possession. 1946, c. 5, s. 6.

Removal of
sand from
bed of
certain
streams
prohibited.

7.—(1) No person shall remove any sand from the bed of any river, stream or creek running between two municipalities without the consent of the councils of such municipalities and in no case shall any sand be removed from the bed of any river, stream or creek so as to injure or endanger the safety of any bridge, drainage pipe, watermain or other structure erected or laid by a municipal corporation.

Penalty.

(2) Every person who contravenes this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$25 for each offence. 1946, c. 5, s. 7.

Removal of
sand from
street or
road pro-
hibited.

8.—(1) No person shall remove any sand from any street or road or from the extension of any street or road into any river or lake without the consent of the council of the municipality in which it is situate.

Penalty.

(2) Every person who contravenes this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10 for every load removed. 1946, c. 5, s. 8.

9.—(1) Notwithstanding anything contained in this Act, *The Beaches and River Beds Act* or any other Act, or in any regulations or order made under any of the said Acts, the Lieutenant-Governor in Council may make regulations prohibiting absolutely, or restricting subject to the terms and conditions contained therein, the taking, removing and carrying away by cart or truck, or by any boat or vessel or other water craft, or by any other vehicle or craft, of any sand from any bed, beach, shore or waters of, or adjacent to, any part of the shores of Lake Erie, Lake Ontario or Lake Huron, or from any land covered by the waters of any of the said lakes adjacent to the said shore, or from any sandbar or flat therein or adjoining any channel or entrance thereto as described in the regulations.

Removal
of sand
from Lakes
Erie,
Ontario,
Huron.
Rev. Stat.,
c. 33.

(2) Such prohibition or restriction shall extend to the owner, tenant or occupant of any such bed, beach, shore, sandbar or flat and to any person claiming under the authority of any municipal corporation or of any order of the Ontario Municipal Board and to every other individual and corporation.

Extent of
prohibition
or
restriction.

(3) Every person who contravenes the prohibition or restriction contained in any such regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$100. 1946, c. 5, s. 9.

Penalty.

10. Every person who violates any of the provisions of this Act or the regulations for which no other penalty is provided shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$1,000, but no prosecution shall be commenced except with the consent in writing of the Attorney-General. 1946, c. 5, s. 10.

General
penalty;
consent to
prosecute.

11. Save as otherwise provided in this Act *The Summary Convictions Act* shall apply to all proceedings taken under this Act. 1946, c. 5, s. 11.

Application
of
Rev. Stat.,
c. 379.

12. In addition to the method of service prescribed by *The Summary Convictions Act* any summons or other proceeding may, where it is directed to a person on board any vessel, be served by leaving it, or a copy thereof, with the person who is or appears to be in charge or command of such vessel. 1946, c. 5, s. 12.

Service of
proceedings.
Rev. Stat.,
c. 379.

13. In any prosecution the burden of proving the right to take any sand shall be upon the person charged with a violation of the Act. 1946, c. 5, s. 13.

Burden of
proof.

- Royalties. **14.**—(1) A person to whom a licence is issued in accordance with this Act, may be required to pay to the Crown in addition to his licence fee, a fixed sum for every yard of sand removed under the authority of the licence. 1946, c. 5, s. 14 (1).
- Amount of royalty. (2) The amount to be charged per yard shall be fixed by the Minister according to the location, type, availability and accessibility of such sand. 1946, c. 5, s. 14 (2); 1947, c. 101, s. 2.
- Security. (3) The Minister may require a person to whom such licence is issued and by whom such sums are payable to the Crown to give security by bond satisfactory to the Minister, for the payment of such sums. 1946, c. 5, s. 14 (3).
- Sale of vessel, etc., for payment of penalty.
Rev. Stat., c. 379. **15.**—(1) In addition to the remedies provided by *The Summary Convictions Act* for the recovery of penalties, any penalty imposed for a violation of this Act if not paid in accordance with the conviction may be levied by the sale of any vessel, conveyance, drag-line or other mechanical device involved in the commission of the offence under the warrant of the convicting magistrate.
- Payment of balance to owner. (2) Upon return being made of the sale after satisfying the penalty and the costs of the sale, the overplus, if any, shall be paid to the owner of the vessel. 1946, c. 5, s. 15.
- Regulations. **16.** The Lieutenant-Governor in Council may make regulations,
- (a) providing for the issue and renewal of licences and prescribing the general terms and conditions thereof and the fees payable therefor;
 - (b) prescribing the form and contents of security bonds;
 - (c) prescribing such forms as may be necessary;
 - (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1946, c. 5, s. 16.

CHAPTER 33

The Beaches and River Beds Act

1. Where a petition signed by 30 or more resident rate-payers in a township is presented to the municipal council of the township praying that an application may be made to the Ontario Municipal Board for an order permitting the rate-payers in such township or in an adjoining municipality to take sand or gravel for use in such township or adjoining municipality for building and other purposes, from the shore or bed of any lake, river, stream, creek or other waters in the municipality within the area described in the petition, the council may apply for such order as hereinafter mentioned. R.S.O. 1937, c. 334, s. 1.

Application
to Municipal
Board by
township
council.

2. The application shall be accompanied by a map or plan prepared by an Ontario land surveyor showing the area from which it is proposed that the sand or gravel should be taken, and the map or plan shall show,

Map or plan
to
accompany
application.

- (a) the location of any buildings, docks, landing places, boat-houses, bathing houses or other structures in such area and upon any lot immediately adjoining the same;
- (b) all existing roads or other means of access to such area;
- (c) the location of any roads which may be required to afford means of access to such area; and
- (d) such other particulars as the Ontario Municipal Board may by general regulation require. R.S.O. 1937, c. 334, s. 2.

3. The application shall not be considered by the Board until notice thereof and of the time and place at which the same will be heard has been published once a week in some newspaper published in the county town of the county in which the described area is situate, or, if there is no newspaper so published, then in a newspaper published in the nearest city or town in the same county, and has been sent by registered post to any owner or occupant whose property is

Notice of
application.

affected and to such other persons as the chairman of the Board may direct at least 30 days before the hearing of the application. R.S.O. 1937, c. 334, s. 3.

Hearing.

4. The Board shall at the time and place appointed hear the council, and the petitioners or their counsel, and any owner or occupant of land which may be taken or used or affected in any manner by the granting of leave to take such sand. R.S.O. 1937, c. 334, s. 4.

When removal of sand or gravel not to be allowed.

5. The order shall not authorize the removal of sand or gravel if it appears that such removal may,

- (a) cause the subsidence of or injury to or in any way interfere with any artificial work or structure having for its object the protection or formation of such beach, or the beautifying or protection of any adjoining land; or
- (b) endanger in any manner the safety of the public or of any person using or passing over adjoining land; or
- (c) injure, impair the beauty or purpose of, or in any manner affect land used as an orchard, garden or pleasure ground, or as a summer residence or health resort; or
- (d) injure or affect the safety of any highway or bridge; or
- (e) injure or interfere in any manner with, or with the right of access to, any wharf, dock, landing stage, boat-house, bathing house, or any other structure erected for the convenience or pleasure of the public, or of the owners of adjoining land,

or if it appears that the beach, shore or bank from or opposite to which the sand or gravel is to be taken is used generally by the public or by the owners or occupants of adjoining land as a promenade, pleasure ground or play ground, or is resorted to largely for bathing and boating, and that the taking of such sand or gravel will interfere with the use of any land or land covered with water for such purposes or that there is not a sufficient demand for such sand or gravel to render the granting of leave to take the same desirable. R.S.O. 1937, c. 334, s. 5.

Order granting application.

6. If the Board thinks fit to grant the application in whole or in part it may make an order specifying,

- (a) the places from which sand or gravel may be taken within the described area or any part thereof;
- (b) the means of access to be afforded for that purpose;
- (c) the compensation to be paid to the owner or occupant of any land to be passed over or from which such sand or gravel may be taken or which may be affected in any other manner by the granting of the application;
- (d) the times when and the quantities in which sand or gravel may be taken;
- (e) the tolls and charges to be paid for the taking of the sand or gravel;
- (f) the period during which the order is to remain in force. R.S.O. 1937, c. 334, s. 6.

7. The council of the township may, by by-law, adopt the Township order and consent to be bound by its terms. R.S.O. 1937, ^{by-law adopting order.} c. 334, s. 7.

8. The order of the Board shall be in triplicate and shall ^{Filing and registering order.} be filed in the offices of the Board and of the clerk of the municipality, and, with the by-law, shall be registered in the registry office of the registry division in which the described area is situate. R.S.O. 1937, c. 334, s. 8.

9. The order of the Board shall be final and shall not be ^{Finality of order.} subject to appeal, but at the expiration of the period named therein it may be renewed or a new order may be made upon the like application and subject to such terms and conditions as to compensation and tolls as the Board may deem just. R.S.O. 1937, c. 334, s. 9.

10.—(1) The council of the township shall annually raise ^{Annual rate to pay compensation.} by general rate any amount ordered by the Board to be paid to any person whose land is passed over or from which sand or gravel is taken or which is affected thereby.

(2) The tolls and charges ordered by the Board to be paid ^{Tolls.} shall be collected by the corporation of the municipality and may be applied in reduction of such rate. R.S.O. 1937, c. 334, s. 10.

Crown
property not
affected.

11. No order made under this Act shall apply to or affect the property of the Crown until assented to by the Lieutenant Governor in Council. R.S.O. 1937, c. 334, s. 11.

Exemption.

12. This Act shall not apply to any municipality or portion of a municipality declared by the Lieutenant-Governor in Council to be exempted therefrom. R.S.O. 1937, c. 334, s. 12.

CHAPTER 34

The Beds of Navigable Waters Act

1. In this Act,

Interpre-
tation.

- (a) "bed" used in relation to a navigable body of water includes all land and land under water lying below the high water mark;
- (b) "high water mark" means the level at which the water in a navigable body of water has been held for a period sufficient to leave a watermark along the bank of such navigable body of water. 1940, c. 28, s. 3 (1).

2.—(1) Where land bordering on a navigable body of water or stream has been heretofore, or shall hereafter, be granted by the Crown, it shall be presumed, in the absence of an express grant of it, that the bed of such body of water or stream was not intended to pass to the grantee of the land, and the grant shall be construed accordingly and not in accordance with the rules of the English Common Law. R.S.O. 1937, c. 44, s. 1.

(2) Where in any patent, conveyance or deed from the Crown made either heretofore or hereafter, the boundary of any land is described as a navigable body of water or the edge, bank, beach, shore, shoreline or high water mark thereof or in any other manner with relation thereto, such boundary shall be deemed always to have been the high water mark of such navigable body of water.

(3) The Minister of Lands and Forests may, upon the recommendation of the Surveyor-General for Ontario, fix the high water mark of any navigable body of water or any part thereof, and his decision shall be final and conclusive. 1940, c. 28, s. 3 (2).

3. Section 2 shall not affect the rights, if any, of a grantee from the Crown or of any person claiming under him, where such rights have heretofore been determined by a court of competent jurisdiction in accordance with the rules of the English Common Law, or of a grantee from the Crown, or

any person claiming under him who establishes to the satisfaction of the Lieutenant-Governor that he or any person under whom he claims has previous to the 24th day of March, 1911, developed a water power or powers under the *bona fide* belief that he had the legal right to do so, provided that he may be required by the Lieutenant-Governor in Council to develop the said power or powers to the fullest possible extent and provided that the price charged for power derived from such water power or powers may from time to time be fixed by the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may direct that letters patent granting such right be issued to such grantee or person claiming under him, under and subject to such conditions and provisions as may be deemed proper for insuring the full development of such water power or powers, and the regulation of the price to be charged for power derived from them. R.S.O. 1937, c. 44, s. 2.

Act not to
apply to
a certain
locality.

4. This Act shall not apply to the bed of the river where it runs through Lot 8 in the 6th Concession of the Township of Merritt in the District of Sudbury. R.S.O. 1937, c. 44, s. 3.

Lieutenant-
Governor
may deal
with special
cases.

5. Notwithstanding anything herein contained the case of any person setting up on special grounds a claim to receive from the Crown a grant or lease of any part of the bed of a navigable body of water or stream shall be dealt with by the Lieutenant-Governor in Council as he may deem fair and just. R.S.O. 1937, c. 44, s. 4.

CHAPTER 35

The Bees Act

1. Bees living in a state of freedom shall be the property of the person discovering them, whether he is or is not the proprietor of the land on which they have established themselves. Ownership of bees in a state of freedom.
R.S.O. 1937, c. 348, s. 1.

2. Bees reared and kept in hives shall be private property. In hives, private property.
R.S.O. 1937, c. 348, s. 2.

3.—(1) Where a swarm of bees leaves a hive the owner may reclaim them, and shall be entitled to take possession of them at any place on which the swarm settles, even if such place be on the land of another person, but the owner shall notify the proprietor of such land before claiming any such bees and compensate him for all damages. Rights of owner where bees abandon hives. R.S.O. 1937, c. 348, s. 3 (1); 1941, c. 8, s. 1.

(2) If a swarm settles in a hive which is already occupied the owner of such swarm shall lose all right of property therein. Exception. R.S.O. 1937, c. 348, s. 3 (2).

4. An unpursued swarm which lodges on any property, without settling thereon, may be secured by the first comer unless the proprietor of the land objects. Unpursued swarms. R.S.O. 1937, c. 348, s. 4.

5. If the owner of a swarm declines to follow the swarm, and another person undertakes the pursuit, such other person shall be substituted in the rights of the owner, and every swarm which is not followed shall become the property of the proprietor of the land on which it settles, without regard to the place from which it has come. Property where owner declines to follow his bees. R.S.O. 1937, c. 348, s. 5.

6.—(1) No person shall spray or dust fruit trees during the period within which such trees are in bloom with a mixture containing any poisonous substance injurious to bees unless almost all the blossoms have fallen from such trees. Use of poison in spraying fruit trees in bloom prohibited. 1941, c. 8, s. 2.

(2) Every person who contravenes this section shall be guilty of an offence and on summary conviction shall be Penalty.

liable to a penalty of not less than \$5 and not more than \$25. R.S.O. 1937, c. 348, ss. 6 (2), 20.

Appoint-
ment of
inspectors
of apiaries.

7.—(1) The Lieutenant-Governor in Council upon the recommendation of the Minister of Agriculture may from time to time appoint one or more inspectors of apiaries to enforce this Act.

Producing
certificate.

(2) The inspector shall, if so required, produce the certificate of his appointment on entering upon any premises in the discharge of his duties.

Remunera-
tion.

(3) The remuneration to be paid to an inspector under this Act shall be determined by order of the Lieutenant-Governor in Council, and shall be payable out of any sum appropriated by the Legislature for the enforcement of this Act. R.S.O. 1937, c. 348, s. 7.

Certificate
of regis-
tration.

8.—(1) Every person keeping bees in Ontario shall on or before the 30th day of June in every year apply to the Minister of Agriculture in writing, signed by the applicant, for a certificate of registration. R.S.O. 1937, c. 348, s. 8 (1); 1941, c. 8, s. 3 (1).

Form of
application.

(2) The application shall be in such form as may be prescribed by the regulations and shall be accompanied by the prescribed fee for registration.

Address of
application.

(3) Every application shall be addressed to the Provincial Apiarist, Ontario Agricultural College, Guelph. R.S.O. 1937, c. 348, s. 8 (2, 3).

Application
for registra-
tion after
30th June.

(4) Where a person commences keeping bees after the 30th day of June in any year, he shall apply for a certificate of registration as hereinbefore provided within 10 days after coming into possession of the bees. R.S.O. 1937, c. 348, s. 8 (4); 1941, c. 8, s. 3 (2).

Penalty.

(5) Every person keeping bees who neglects or refuses to comply with this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$10. R.S.O. 1937, c. 348, ss. 8 (5), 20.

Permit to
sell or
produce
bees.

9.—(1) Every person who sells bees or produces bees for the purpose of sale shall on or before the 30th day of June in every year make application to the Minister of Agriculture for a permit. 1945, c. 2, s. 1 (1), *part.*

(2) Every application and permit shall be in the form prescribed by the Minister and every permit shall be subject to such terms and conditions as the Minister may prescribe. 1941, c. 8, s. 4, *part*.

(3) No person who sells or produces for the purpose of sale combless package bees shall use as food for such bees candy containing honey. 1945, c. 2, s. 1 (1), *part*.

(4) Every person who neglects or refuses to comply with this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25. 1941, c. 8, s. 4, *part, amended*.

(5) Every person who sells bees shall keep a record of each sale and shall at the end of each calendar year forward to the Provincial Apiarist, Ontario Agricultural College, Guelph, a statement giving the name and address of each purchaser of bees.

(6) Every person who receives bees that have been obtained from a point outside of Ontario shall within 10 days notify the Provincial Apiarist, Ontario Agricultural College, Guelph, that such bees have been so received. 1945, c. 2, s. 1 (2).

10.—(1) The inspector shall, whenever so directed by the Minister, visit any locality in Ontario and examine any apiary to which the Minister directs him, for the purpose of ascertaining if any infectious or contagious disease of bees exists in such apiary.

(2) If the inspector finds that foul brood exists in a virulent or malignant type he may immediately destroy by fire all colonies of bees so affected, together with the hives occupied by them and the contents of such hives and all tainted appurtenances that cannot be disinfected.

(3) Where the inspector, who shall be the sole judge thereof, finds that an infectious or contagious disease, not being foul brood of a virulent or malignant type, exists among the bees he shall give notice in writing to the bee-keeper instructing him as to the treatment of such disease and stating the time within which such treatment shall be given, and if at the expiration of such time the diseased colonies have not been treated by the bee-keeper in accordance with the notice, the same may be treated by the inspector, and the bee-keeper shall be liable to the inspector for all expenses incurred in such treatment. R.S.O. 1937, c. 348, s. 9.

Transfer to
movable
hives.

11. The inspector may order the owner or possessor of any bees dwelling in box or immovable frame hives to transfer them to movable frame hives within a specified time, and in default the inspector may destroy or order the destruction of such hives and the bees dwelling therein. R.S.O. 1937, c. 348, s. 10.

Quarantine.

12. For the better prevention of foul brood, the Lieutenant-Governor in Council may, on the recommendation of the Minister, declare a quarantine of bees at any point within Ontario and may fix the duration of such quarantine and all other conditions in connection therewith, and any inspector appointed under this Act shall have full authority to inspect bees in such quarantine when directed so to do by the Minister. R.S.O. 1937, c. 348, s. 12.

Sale of
infected bees
or articles.

13.—(1) The owner or possessor of an apiary shall not sell by auction or otherwise barter, give away or remove from the premises any bees or used apiary appliances or apparatus until he has secured a certificate from the Provincial Apiarist that such bees, used apiary appliances or apparatus have been properly disinfected and are free from disease. R.S.O. 1937, c. 348, s. 12 (1); 1941, c. 8, s. 5; 1946, c. 89, s. 8.

Certificate
required
with im-
portation.

(2) Bees or used apiary appliances or apparatus shall not be imported into Ontario from any other province in Canada or from any state in the United States of America unless accompanied by a certificate from a provincial or state officer certifying that such bees, used apiary appliances or apparatus are free from any infectious or contagious disease, but this shall not apply to the importation into Ontario of bees apart from combs. R.S.O. 1937, c. 348, s. 12 (2).

Penalty.

(3) Every person who contravenes this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$100. R.S.O. 1937, c. 348, ss. 12 (3), 20.

Selling
infected
bees, etc;
exposing
infected
things.

14. Every person whose bees have been destroyed or treated for foul brood who sells or offers for sale any bees, hives or appurtenances of any kind after such destruction or treatment and before receiving a permit from the Provincial Apiarist so to do, or who exposes in his bee-yard, or elsewhere, any infected comb honey or other infected thing, or conceals the fact that such disease exists among his bees shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$20 and not more than \$50, or he may be imprisoned for a term of not more than two months. R.S.O. 1937, c. 348, ss. 13, 20.

15. Every owner or possessor of bees who refuses to allow the inspector to freely examine bees or the premises in which they are kept, or who refuses to destroy the infected bees and appurtenances or to permit them to be destroyed when so directed by the inspector, shall, on the complaint of the inspector, be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$25 and not more than \$50 for the first offence, and not less than \$50 and not more than \$100 for the second and any subsequent offence, and the convicting justice shall by the conviction order such owner or possessor forthwith to carry out the directions of the inspector. R.S.O. 1937, c. 348, ss. 14, 20.

Obstructing
inspector.

16. Where such owner or possessor of bees offers resistance to or obstructs the inspector, a justice of the peace may, upon the complaint of the inspector, cause a sufficient number of special constables to be sworn in who shall, under the directions of the inspector, proceed to the premises of such owner or possessor and assist the inspector to seize all the diseased colonies and infected appurtenances and burn them forthwith, and if necessary the inspector or constables may arrest the owner or possessor and bring him before a justice of the peace to be dealt with according to section 15. R.S.O. 1937, c. 348, s. 15.

Employment
of special
constables.

17. Before proceeding against any person before a justice of the peace the inspector shall read over to such person the provisions of this Act or shall cause a copy thereof to be delivered to him. R.S.O. 1937, c. 348, s. 16.

Informing
offender of
provisions
of Act.

18. Every owner or possessor of bees and any other person who is aware of the existence of foul brood either in his own apiary or elsewhere shall immediately notify the Minister of the existence of such disease and in default of so doing shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$5. R.S.O. 1937, c. 348, ss. 17, 20.

Duty to
notify
Minister.

19. Each inspector shall report to the Minister as to the inspection of any apiary in such form and manner as the Minister may direct, and all reports shall be filed in the Department of Agriculture and shall be made public as the Minister may direct or upon order of the Assembly. R.S.O. 1937, c. 348, s. 18.

Inspectors
to report to
Minister.

20. The Minister of Agriculture, with the approval of the Lieutenant-Governor in Council, may make regulations,

Regulations.

- (a) prescribing the form of application for registration;
- (b) for fixing the fees to be paid for registration and upon a certificate of registration;

- (c) for the registration of bee-keepers and prescribing the form of the register and the particulars to be entered therein;
- (d) for requiring bee-keepers to make such returns and to furnish such information to the Department as may be deemed necessary or desirable;
- (e) regulating and controlling the buying, selling, transporting and shipping of beeswax refuse and used honey combs;
- (f) designating any area in Ontario as a queen bee breeding area and regulating and controlling the keeping of bees in such area;
- (g) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 348, s. 19; 1942, c. 5, s. 1; 1945, c. 2, s. 2.

Molesting
or destroying
apiaries.

21. Every person who molests or wilfully destroys apiaries or who plants any material infected with disease in the vicinity of apiaries shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25. 1941, c. 8, s. 6, *part, amended*.

Position
of hives.

22.—(1) No hives containing bees shall be placed or left within 30 feet of the nearest highway, dwelling or cultivated field.

Exceptions.

(2) Subsection 1 shall not apply to hives placed or left on lands when the lands are separated from the highway, dwelling or cultivated field by a solid wooden fence or hedge at least seven feet in height and extending at least fifteen feet in both directions from the hives.

Penalties.

(3) Every person who neglects or refuses to comply with this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25. 1941, c. 8, s. 6, *part, amended*.

Used
containers.

23. Every person who sells, transports or ships any used honey container that has not been cleansed shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$25. 1948, c. 7, s. 1, *amended*.

CHAPTER 36

The Bills of Sale and Chattel Mortgages Act

1. In this Act,

Interpre-
tation.

- (a) "actual and continued change of possession" means such change of possession as is open and reasonably sufficient to afford public notice thereof;
- (b) "creditors" includes creditors of the mortgagor or bargainor suing on behalf of themselves and other creditors, an assignee in insolvency or trustee in bankruptcy of a mortgagor or bargainor, the liquidator of a company in a winding up proceeding under the *Winding-up Act* (Canada), and an assignee for the general benefit of creditors, as well as creditors having executions against the goods and chattels of the mortgagor or bargainor in the hands of a sheriff or other officer; R.S.C. 1927,
c. 213.
- (c) "debentures" includes debentures, debenture stock, notes, bonds or other securities which contain or are entitled to the benefit of a mortgage charge or floating charge on the personal assets of any company;
- (d) "mortgage" includes a conveyance intended to operate as a mortgage and any deed or instrument by which a charge or floating charge is created upon personal property; (*See also sections 19 and 20*)
- (e) "rolling stock" means any locomotive, engine, motor car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement on its wheels over or upon the rails or tracks of a railway. R.S.O. 1937, c. 181, s. 1.

2. This Act, except section 35, shall not apply to an assignment for the general benefit of creditors to which *The Assignments and Preferences Act* applies. R.S.O. 1937, c. 181, s. 2. Assignment
for benefit
of creditors
excepted.
Rev. Stat.,
c. 26.

3. This Act shall not apply to mortgages of vessels registered under any Act in that behalf. R.S.O. 1937, c. 181, s. 3. Mortgages
of registered
vessels
excepted.

Registration
of mortgages
of goods
not attended
with change
of possession.

4. Every mortgage of goods and chattels in Ontario, which is not accompanied by an immediate delivery and an actual and continued change of possession of the things mortgaged, shall be registered as hereinafter provided, together with,

- (a) the affidavit of an attesting witness thereto of the due execution of such mortgage, which affidavit shall also state the date of the execution of the mortgage; and
- (b) the affidavit of the mortgagee that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that the mortgage was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor, or of preventing the creditors of such mortgagor from obtaining payment of any claim against him or in cases falling within section 5, the affidavit therein prescribed. R.S.O. 1937, c. 181, s. 4.

Mortgage,

5. Where a mortgage of goods and chattels is made,

to secure
future
advances or
endorse-
ments;

- (a) to secure the mortgagee for advances made in pursuance of an agreement in writing to make future advances for the purpose of enabling the borrower to enter into or to carry on business with such advances, the time of repayment thereof not being longer than one year from the making of the agreement; or

to secure
against
liability as
surety.

- (b) to secure the mortgagee against the endorsement of any bill of exchange or promissory note or other liability by him incurred for the mortgagor, such liability not extending for a longer time than one year from the date of the mortgage,

the affidavit of the mortgagee shall state that the mortgage truly sets forth the agreement and truly states the extent and amount of the advances intended to be made or liability intended to be created by the agreement and covered by the mortgage, and that the mortgage is entered into in good faith and for the express purpose of securing the mortgagee repayment of his advances or against the liability intended to be created, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the

creditors of the mortgagor nor to prevent such creditors from recovering any claims which they may have against the mortgagor. R.S.O. 1937, c. 181, s. 5.

6. If for any reason it is shown to be necessary or expedient ^{When verified copy may be registered.} the county judge may permit a copy verified by affidavit to be registered in lieu of the original mortgage. R.S.O. 1937, c. 181, s. 6.

7. If the mortgage and affidavits are not registered as by ^{Effect of non-registration.} this Act provided, the mortgage shall be absolutely null and void as against creditors of the mortgagor, and as against subsequent purchasers or mortgagees in good faith for valuable consideration. R.S.O. 1937, c. 181, s. 7.

8. Every sale of goods and chattels, not accompanied by ^{Requirements of sale of goods not attended with delivery.} an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under this Act, and such conveyance accompanied by an affidavit of an attesting witness thereto of the due execution of the conveyance, and an affidavit of the bargainee that the sale is *bona fide* and for good consideration, as set forth in the conveyance, and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor, shall be registered, as hereinafter provided, otherwise the sale shall be absolutely null and void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. R.S.O. 1937, c. 181, s. 8.

9. A mortgage or conveyance shall not be invalidated ^{When defects not to invalidate.} by reason only of clerical errors or omissions therein or in the affidavits of execution and *bona fides* unless such errors or omissions are calculated to mislead or deceive or have the effect of misleading or deceiving. R.S.O. 1937, c. 181, s. 9.

10. Where a mortgage or conveyance is not duly registered ^{Registration after statutory period.} within the time prescribed by this Act, the judge of the county or district court may permit the same to be registered at a later date upon being satisfied by affidavit, or affidavits, registered that the failure to register arose from misadventure, ignorance or some other cause which constitutes a reasonable excuse and that the parties have acted and are acting in good faith, but in such case the mortgage or conveyance shall, as against creditors of the mortgagor, or as against subsequent purchasers or mortgagees in good faith for valuable consideration, be deemed to have been executed and to be effective only from the date of registration. R.S.O. 1937, c. 181, s. 10.

Where
Crown
mortgagee.

11. Where the Crown is mortgagee or bargainee, the provisions of this Act as to an affidavit of *bona fides* shall not apply. R.S.O. 1937, c. 181, s. 11.

When
mortgage to
take effect.

12. Every such mortgage or conveyance shall operate and take effect upon, from and after the day and time of the execution thereof. R.S.O. 1937, c. 181, s. 12.

Manner of
describing
property in
mortgages,
etc.

13. Every mortgage and every conveyance or agreement required to be registered under this Act shall contain such sufficient and full description of the goods and chattels that the same may be thereby readily and easily known and distinguished. R.S.O. 1937, c. 181, s. 13.

Mortgages,
etc., of
goods not in
possession of
mortgagor or
intended for
future
delivery.

14. This Act shall extend to a mortgage or sale of goods and chattels which may not be the property of or in the possession, custody or control of the mortgagor or bargainor or any person on his behalf at the time of the making of the mortgage or sale, and notwithstanding that such goods or chattels may be intended to be delivered at some future time, or that the same may not at the time of the making of the mortgage or sale be actually procured or provided or fit or ready for delivery, or that some act may be required for the making or completing of such goods and chattels or rendering the same fit for delivery. R.S.O. 1937, c. 181, s. 14.

Who may
make affi-
davits of
bona fides
and on
renewal of
mortgage.

15.—(1) Every affidavit of *bona fides* required by this Act and every affidavit required upon the renewal of a chattel mortgage may be made by one of two or more bargainees or mortgagees, or by his or their agent if aware of all the circumstances and properly authorized in writing to take the conveyance or to take or renew the mortgage, or, in the case provided for by section 5, to make the agreement and to take the mortgage.

In the case
of a
corporation.

(2) If the mortgage or conveyance is made to a corporation the affidavit may be made by the president, vice-president, manager, assistant manager, secretary or treasurer, or by any other officer or agent thereof authorized to do so by resolution of the directors.

Affidavits
made by
agents or
officers.

(3) Where the affidavit is made by the agent of the mortgagee or bargainee, or by an officer or agent of a corporation, it shall state that the deponent is aware of all the circumstances connected with the mortgage or conveyance and has personal knowledge of the facts deposed to.

Branch
managers,
etc., may
make affi-
davit of *bona*
fides or on
renewal.

(4) If the mortgage or conveyance is made to a corporation having branches, agencies or offices opened pursuant to statutory authority, the affidavit may be made by the manager, assistant manager or accountant of any such branch,

agency or office without being authorized so to do by resolution of the directors and the affidavit shall state that the deponent is aware of all the circumstances connected with the mortgage or conveyance and has personal knowledge of the facts deposed to. R.S.O. 1937, c. 181, s. 15.

16. The authority in writing referred to in section 15 or a copy of such authority, shall be attached to and filed with the mortgage or conveyance. R.S.O. 1937, c. 181, s. 16. Agent's authority to be attached to mortgage.

17. Any affidavit by this Act required to be made by the mortgagee or by the bargainee may in the case of his death be made by any of his next of kin or by his executor or administrator, or if the mortgage has been assigned, by his assignee. R.S.O. 1937, c. 181, s. 17. Affidavit of executor, administrator, next of kin, or assignee.

18. An authority to take a conveyance or to take or renew a mortgage may be a general one to take all or any conveyances to the bargainee, or to take and renew all or any mortgages to the mortgagee. R.S.O. 1937, c. 181, s. 18. General authority to take or renew mortgages.

19. Every covenant, promise or agreement to make, execute or give a mortgage of goods and chattels shall be in writing, and shall be deemed to be a mortgage within the meaning of this Act. R.S.O. 1937, c. 181, s. 19. Effect of contract to give a chattel mortgage.

20. Every covenant, promise or agreement to make a sale of goods and chattels shall be in writing and shall be deemed to be a sale of goods and chattels within the meaning of this Act. R.S.O. 1937, c. 181, s. 20. Effect of contract to make a sale.

21.—(1) Except in the case of the Provisional County of Haliburton the instruments mentioned in the preceding sections shall be registered in the office of the clerk of the county or district court of the county or district in which the property mortgaged or sold is at the time of the execution thereof. Where instruments to be registered.

(2) Where the property is situate in the Provisional County of Haliburton the instrument shall be registered in the office of the clerk of the county court of the County of Victoria. Haliburton.

(3) In the case of a county the instrument shall be registered within five days from the execution thereof. Limitation of time for registration.

(4) In the case of the Provisional County of Haliburton and of a district the instrument shall be registered within ten days from the execution thereof. Haliburton and districts.

Filing and
endorsing.

(5) The clerk shall file the instrument and endorse thereon the time of receiving it.

Certificate of
registration.

(6) The clerk shall give to the person registering an instrument a certificate of its registration if so requested.

Computation
of time for
registration.

(7) Where there are more mortgagors or grantors than one the time shall be computed from the execution of the instrument by the last mortgagor or grantor. R.S.O. 1937, c. 181, s. 21.

Procedure
when mort-
gaged goods
are removed.

22. In the event of the permanent removal of the goods and chattels from the county, provisional county or district in which the goods and chattels were at the time of the execution of the mortgage to another county, provisional county or district before the payment and discharge of the mortgage, a copy of the mortgage and of the affidavits, documents, instruments and statements relating thereto, certified under the hand of the clerk in whose office it was registered, and under the seal of the court, shall be filed with the proper officer as mentioned in section 21, of the county, provisional county or district to which the goods and chattels are removed within two months from such removal, otherwise the mortgage shall be null and void as against creditors of the mortgagor and as against subsequent purchasers and mortgagees in good faith for valuable consideration. R.S.O. 1937, c. 181, s. 22.

Manner of
registration.

23. The clerk shall number every instrument or copy filed in his office, and shall enter in alphabetical order in a book to be provided by him the names of all the parties thereto, with the number endorsed thereon opposite to each name, and such entry shall be repeated alphabetically under the name of every party thereto. R.S.O. 1937, c. 181, s. 23.

Renewal of
mortgages.

24.—(1) Except as provided in subsection 2 and subject to section 28 every mortgage registered in pursuance of this Act shall cease to be valid, as against the creditors of the person making the same and as against subsequent purchasers and mortgagees in good faith for valuable consideration, after the expiration of one year from the day of the registration thereof unless, within 30 days next preceding the expiration of the said term of one year, a statement (Form 1), exhibiting the interest of the mortgagee, his executors, administrators or assigns in the mortgaged property, and showing the amount still due for principal and interest thereon, and all payments made on account thereof, is registered in the proper office, as mentioned in section 21, of the county, provisional county or district in which the mortgage was

registered, with an affidavit of the mortgagee that the statement is true and that the mortgage has not been kept on foot for any fraudulent purpose.

(2) Where there has been a permanent removal of the goods and chattels, as mentioned in section 22, and a certified copy of the mortgage has been registered as required by that section the statement and affidavit shall be registered in the office in which such certified copy is registered, and the period of one year shall be reckoned from the date of the registration of such certified copy.

Case of permanent removal of goods.

(3) Where the two months mentioned in section 22 have not expired when the period of one year mentioned in subsection 1 expires, and a certified copy of the mortgage has not been registered as provided by section 22, the statement and affidavit may be registered in the office in which the mortgage was registered.

Idem.

(4) If any *bona fide* error or mistake is made in the statement, either by the omission to give any credit or by any miscalculation in the computation of interest or otherwise, the statement and the mortgage therein referred to shall not be invalidated if the mortgagee, his executors, administrators or assigns within two weeks after the discovery of the error or mistake, registers an amended statement and affidavit referring to the former statement and clearly pointing out the error or mistake therein and correcting the same.

Remedying error or mistake made in statement.

(5) If before the registration of such amended statement and affidavit any creditor or purchaser or mortgagee in good faith for valuable consideration has made any *bona fide* advance of money or given any valuable consideration to the mortgagor, or has incurred any costs in proceedings taken on the faith of the amount due on the mortgage being as stated in the renewal statement and affidavit as first registered, the mortgage, as to the amount so advanced or the valuable consideration given or costs incurred by such creditor, purchaser or mortgagee, shall, as against such creditor, purchaser or mortgagee, stand good only for the amount mentioned in the renewal statement and affidavit first registered.

Advances made in good faith protected.

(6) The statement and affidavit shall be deemed one instrument and shall be registered and entered as provided by section 23.

Manner of registering.

(7) Another statement in accordance with subsection 1, verified as required by that subsection, shall be registered in the proper office, according to section 21 or subsection 2

Annual registration of renewals.

of this section, as the case may be, within 30 days next preceding the expiration of one year from the day of the registration of the statement required by subsection 1, otherwise such mortgage shall cease to be valid as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith for valuable consideration, and so on from year to year, that is to say, another verified statement shall be registered within 30 days next preceding the expiration of one year from the day of the registration of the former statement, otherwise such mortgage shall cease to be valid as aforesaid.

By whom
affidavits on
renewals may
be made.

(8) If the affidavit is made by an assignee, or by any of his next of kin, or by his executor or administrator, the assignment or the several assignments through which he claims shall be registered with the statement and affidavit, unless the same have been already registered.

Assignment
for benefit
of creditors
excepted.
Rev. Stat.,
c. 26.

(9) Subsection 8 shall not apply to an assignment for the benefit of creditors under *The Assignments and Preferences Act*, or any other Act of Ontario or of Canada relating to assignments for the benefit of creditors, if such assignment be referred to in the statement and notice thereof has been given in manner required by law.

Affidavit by
trustee in
bankruptcy.

(10) Where a mortgagee has become bankrupt the affidavit may be made by the trustee in bankruptcy who shall report to the court upon knowledge, information and belief.

Registration
of renewals
after
statutory
period.

(11) Where a statement of renewal is not duly registered within the time prescribed by this section, the judge of the county or district court may permit the same to be registered at a later date upon being satisfied by affidavit, or affidavits, that the failure to register arose from misadventure, ignorance or some other cause which constitutes a reasonable excuse, and that the parties have acted and are acting in good faith, but in such case the renewal statement shall as against creditors of the mortgagor, or as against subsequent purchasers or mortgagees in good faith for valuable consideration who have purchased or have given credit after the expiry of the mortgage but before registration be deemed to have been executed and to be effective only from the date of registration, and, for the purposes of registration of any further statement of renewal, such statement of renewal shall be deemed to have been registered upon the actual date of registration. R.S.O. 1937, c. 181, s. 24.

Mortgages
where county
or district
boundaries
altered.

25. Where a new county or district is formed, or territory is added to a county or district, every mortgage which under this Act would otherwise require to be renewed in the county

or district of which the territory forming or added to the new county or district was part shall be renewed in the office of the proper officer of the county or district so formed or to which such territory is added, and upon such renewal a copy of the mortgage, certified under the hand of the officer in whose office it was registered and the seal of the court, shall be registered with the renewal statement and affidavit. R.S.O. 1937, c. 181, s. 25.

26. Sections 24 and 25 shall not apply where the mortgage is made to the Crown. R.S.O. 1937, c. 181, s. 26. Crown not affected.

27. A mortgage or sale declared by this Act to be void or which under section 24 has ceased to be valid as against creditors and subsequent purchasers or mortgagees shall not be the subsequent taking of possession of the goods and chattels mortgaged or sold by the mortgagee or bargainee be thereby made valid as against persons who became creditors, purchasers or mortgagees before such taking of possession. R.S.O. 1937, c. 181, s. 27. When subsequent possession not to validate mortgage or sale otherwise void.

28.—(1) In the case of a mortgage of goods and chattels made by any incorporated company to a bondholder, or to a trustee, for the purpose of securing the bonds or debentures of such company it shall be sufficient if the affidavit of *bona fides* is to the effect that the mortgage was executed in good faith and for the express purpose of securing the payment of the bonds or debentures referred to therein, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagors, or of preventing the creditors of such mortgagors from obtaining payment of any claim against them. Affidavits of bona fides where mortgage given by company to secure bonds or debentures.

(2) Where the head office of the company is not within Ontario the mortgage may be registered within thirty days instead of five days, as provided by section 21. Where head office not in Ontario.

(3) Any such mortgage may be renewed in the manner and with the effect provided by section 24 by the filing of a statement by the mortgagee or one of the mortgagees exhibiting the interest of the mortgagee or mortgagees in the property claimed by virtue of the mortgage, and showing the amount of the bond or debenture debt which the same was made to secure, and showing all payments on account thereof, which, to the best of the information and belief of the person making such statement, have been made, or of which he is aware or has been informed, together with an affidavit of the person making such statement that the statement is true to the best of his knowledge, information and belief, and that Renewal of mortgages.

the mortgage has not been kept on foot for any fraudulent purpose, and such statement shall be filed instead of the statement required by section 24.

Renewal of mortgages given to secure debentures of companies.

(4) Where the mortgage is made as a security for bonds or debentures and the by-law authorizing the issue of the bonds or debentures as a security for which the mortgage was made, or a copy thereof certified under the hand of the president or vice-president and secretary of the company and verified by an affidavit thereto attached or endorsed thereon and having the corporate seal attached thereto, is registered with the mortgage it shall not be necessary to renew the mortgage, but the same shall in such case continue to be as valid as if it had been duly renewed as in this Act provided. R.S.O. 1937, c. 181, s. 28 (1-4).

Mortgage of rolling stock.

29.—(1) In the case of a mortgage securing bonds made by an incorporated company on rolling stock owned by it, it shall be sufficient for the purposes of this Act if the mortgage or a copy thereof and the affidavit, referred to in subsection 1 of section 28, be filed in the office of the Provincial Secretary within the time limited by this Act for registering a mortgage to secure bonds or debentures of an incorporated company.

Where renewals to be filed.

(2) The office of the Provincial Secretary shall be the place for filing the renewal statements of any such mortgage of rolling stock where renewal thereof is necessary under this Act. R.S.O. 1937, c. 181, s. 29 (1, 2).

Mortgage to secure bonds, etc., on leased rolling stock.

30.—(1) In the case of a mortgage, hypothec or other instrument made by an incorporated company securing bonds, debentures, notes or other securities on any rolling stock which is subject to any lease, conditional sale or bailment to a railway company, the same or a copy thereof may be filed in the office of the Provincial Secretary within 21 days from the execution thereof, and if so filed shall be as valid as against creditors of such company and subsequent purchasers as if the same had been registered pursuant to this Act.

Notice in *Gazette*.

(2) Notice of the filing shall forthwith thereafter be given in *The Ontario Gazette*. R.S.O. 1937, c. 181, s. 30 (1, 2).

Application of ss. 28-30.

Rev. Stat., c. 71.

(3) Sections 28 and 29 and this section shall not apply to any instrument registered under *The Corporation Securities Registration Act*. R.S.O. 1937, c. 181, s. 30 (4).

Proof of registration.

31. A copy of any instrument or document registered under this Act and of any endorsement thereon certified under the hand of the officer with whom the same is registered and

under the seal of the court, or where the same is filed in the office of the Provincial Secretary under the hand of the Provincial Secretary or Deputy Provincial Secretary, shall be received as evidence by all courts that the instrument or document was received and registered or filed according to the endorsement thereon. R.S.O. 1937, c. 181, s. 31.

32. A mortgage registered under this Act may be discharged by registering in the office in which the mortgage is registered a certificate (Form 2), signed by the mortgagee, his executors, administrators or assigns. R.S.O. 1937, c. 181, s. 32. Discharge.

33.—(1) The officer with whom the mortgage is registered upon receiving such certificate, proved by the affidavit of a subscribing witness, shall, at each place where the number of the mortgage has been entered, with the name of any of the parties thereto, in the book kept by him under section 23, or wherever otherwise in such book the mortgage has been entered, write the words "Discharged by Certificate Number (*stating the number of the certificate*)", and to such entry the officer shall subscribe his name, and he shall also endorse the fact of the discharge upon the instrument discharged, and shall subscribe his name to the endorsement. Entering certificates of discharge.

(2) Where a mortgage has been renewed under section 24 the endorsement or entries required by subsection 1 need only be made upon the statement and affidavit filed on the last renewal, and at the entries of the statement and affidavit in such book. Entries of renewal.

(3) A certificate of discharge by an assignee shall not be registered unless and until the assignment is registered. When to be registered.

(4) The assignment shall, upon proof by the affidavit of a subscribing witness, be registered, numbered and entered in such book in the same manner as a mortgage. R.S.O. 1937, c. 181, s. 33. Entry of assignment of mortgages.

34.—(1) Every person shall on payment of the proper fees have access to and be entitled to inspect the books containing records or entries of mortgages, conveyances or assignments registered. Inspection of books recording instruments.

(2) A person desiring such access or inspection shall not be required, as a condition to his right thereto, to furnish the names of the persons in respect of whom such access or inspection is sought. Idem.

Production
of
instruments.

(3) The clerk shall upon demand produce for inspection any such mortgage, conveyance, assignment or copy thereof registered in his office. R.S.O. 1937, c. 181, s. 34.

Returns of
chattel
mortgages,
etc., to be
made by
clerks.

35.—(1) Every officer with whom instruments are required to be registered under this Act shall, on or before the 15th day of January in each year, transmit to the Minister of Agriculture a return which shall set out,

- (a) the number of undischarged mortgages on record in his office on the 1st day of January in the year next preceding that in which the return is made;
- (b) the number of mortgages and renewals, the number of discharges, and the number of assignments for the benefit of creditors registered during the year following the said 1st day of January; and
- (c) the number of undischarged mortgages on record in his office on the 31st day of December in said year.

Lapsed
instruments.

(2) The return shall not include instruments which have lapsed by reason of non-renewal.

What to be
shown in
returns.

(3) The occupations or callings of the mortgagors or assignors as stated in the instruments shall be classified and the return shall show the aggregate sums purporting to be secured by the mortgages in each class.

Considera-
tions of
mortgages
to be
classified.

(4) The return shall, where practicable, distinguish mortgages to secure endorsements or future advances from mortgages to secure existing debts or present advances. R.S.O. 1937, c. 181, s. 35.

Schedule
of fees.

36. For services under this Act the officers shall be entitled to the following fees:

- (a) for registering each instrument or copy or renewal statement.....\$.50
- (b) for registering an assignment..... .50
- (c) for registering a certificate of discharge..... .50
- (d) for a general search or for a search as to any particular person..... .25
- (e) for production and inspection of any instrument or document..... .10

(f) for copies of any instrument or document and certifying the same, for every hundred words... .10

(g) for a certificate of registration of any instrument given at the time of registration..... .25

1939, c. 47, s. 2.

FORM 1

(Section 24)

RENEWAL STATEMENT

Statement exhibiting the interest of.....in the property mentioned in the mortgage dated the.....day of....., 19...., made between.....of....., of the one part, and.....of....., of the other part and registered in the office of the Clerk of the.....Court of the....., on the.....day of....., 19...., and of the amount due for principal and interest thereon, and of all payments made on account thereof.

The said.....is still the mortgagee of the said property, and has not assigned the said mortgage (*or* the said.....is the assignee of the said mortgage by virtue of an assignment thereof from the said.....to him, dated the.....day of....., 19....) (*or as the case may be*).

No payments have been made on account of the said mortgage (*or* the following payments, and no other, have been made on account of the said mortgage:

.....19...., January 1, Cash received.....\$100.00)

The amount still due for principal and interest on the said mortgage is the sum of \$....., made up as follows: (*here give the items*).

A. B.

(*Signature of Mortgagee or Assignee*)

County (*or* District) of..... }
To wit,

I, of the of in the of the mortgagee named in the mortgage mentioned in the foregoing (*or* annexed) statement (*or* assignee of the mortgagee named in the mortgage mentioned in the foregoing [*or* annexed] statement) (*as the case may be*), make oath and say:

1. That the foregoing (*or* annexed) statement is true.

2. That the mortgage mentioned in the said statement has not been kept on foot for any fraudulent purpose.

A. B.

Sworn before me at the
.....of.....in the
.....of....., this....
.....day of....., 19....
E. F.,
A Commissioner, etc. }

FORM 2

(Section 32)

DISCHARGE OF MORTGAGE

To the Clerk of the Court of the of

I, of do certify that has satisfied all money due, or to grow due on a certain mortgage made by to , which mortgage bears date the day of , 19...., and was registered (or in case the mortgage has been renewed was last renewed), in the office of the Clerk of the Court of the of , on the day of , 19...., as No. (here mention the date of registration of each assignment thereof, and the names of the parties; or mention that such mortgage has not been assigned, as the fact may be); and that I am the person entitled by law to receive the money, and that such mortgage is therefore discharged.

Witness my hand this..... day of....., 19.....

Witness

C. D.

A. B.

(Signature of Mortgagee or Assignee)

R.S.O. 1937, c. 181, Form 2.

CHAPTER 37

The Blind Workmen's Compensation Act

1. In this Act,

Interpre-
tation.

- (a) "blind workman" means a workman as defined by *The Workmen's Compensation Act* possessing a central visual acuity in his better eye reading 6-60 or 20-200 or less; Rev. Stat., c. 430.
- (b) "Board" means The Workmen's Compensation Board;
- (c) "Department" means Department of the Provincial Treasurer;
- (d) "employer" means an employer as defined by *The Workmen's Compensation Act* who has in his employ a blind workman;
- (e) "full cost of compensation" means compensation, burial expenses, the cost of furnishing medical aid and all other amounts payable under or by virtue of Part I of *The Workmen's Compensation Act* by reason of a blind workman meeting with an accident for which he would be entitled to compensation under the said Act, and includes the capitalized sum or present value of the sum required as determined by the Board to provide for future payments of compensation to the pensioner or his dependants;
- (f) "Institute" means The Canadian National Institute for the Blind. R.S.O. 1937, c. 205, s. 1.

2. Where the full cost of compensation exceeds \$50, the Department shall in the case of industries coming under Schedule 1 of the regulations under *The Workmen's Compensation Act* pay the same to the Board by way of reimbursement to the accident fund as defined by the said Act, and in the case of industries coming under Schedule 2, pay the same to the employer, such payment or payments to be made out of the Consolidated Revenue Fund upon receiving from the Board a certificate of the full cost of compensation, which Reimbursement to employers. Rev. Stat., c. 430.

certificate may be accepted by the Department without further proof. R.S.O. 1937, c. 205, s. 2.

Prior awards.

Rev. Stat., c. 430.

3. In making any award to a blind workman for injury by accident under *The Workmen's Compensation Act*, the Board may have regard to any previous awards made him for injury under the said Act. R.S.O. 1937, c. 205, s. 3.

Assessments.

4. The assessment on an employer to be levied by the Board on the wages of a blind workman may be fixed by the Board at such an amount as may be deemed fair, having regard to *The Workmen's Compensation Act*. R.S.O. 1937, c. 205, s. 4.

Proper placement.

5.—(1) Subject to subsection 2 the Institute shall have exclusive jurisdiction as to the nature of the work a blind workman shall do and as to the proper placement of such workman.

Assignment of powers and duties of the Institute.

(2) Upon the recommendation of the Board the Lieutenant-Governor in Council may designate any other organization or institution to execute the powers and perform the duties assigned to the Institute under this Act and thereupon this Act shall be read as though the name of the organization or institution was substituted for the Institute. R.S.O. 1937, c. 205, s. 5.

Waiver of rights in case of improper placement.

6. An employer giving employment to a blind workman without the consent or approval of the Institute, or changing the nature of such employment once approved by the Institute without the consent or approval of the Institute, shall be deemed to have waived all right to the benefit of this Act in respect to injury to such blind workman. R.S.O. 1937, c. 205, s. 6.

Access to blind workman.

7. Officers of the Institute shall have access at all times to the place of employment of a blind workman with the knowledge and consent of the superintendent or foreman. R.S.O. 1937, c. 205, s. 7.

Certificates or other requisitions.

8. The Institute shall provide the Board, upon request, with all such certificates or other material as may be required by the Board in the fulfilment of its duties. R.S.O. 1937, c. 205, s. 8.

CHAPTER 38

The Boards of Education Act

1. In this Act,

Interpre-
tation.

- (a) "high school" includes a collegiate institute;
- (b) "high school district" means a high school district established under *The High Schools Act*; Rev. Stat.,
c. 165.
- (c) "Minister" means Minister of Education;
- (d) "municipal board" and "municipal board of education" mean a board of education organized under section 2, 3, 4 or 5;
- (e) "secretary" and "treasurer" include a secretary-treasurer;
- (f) "union board" and "union board of education" mean a board of education formed by the union of a high school board with one or more public school boards. R.S.O. 1937, c. 361, s. 1; 1949, c. 8, s. 1; 1950, c. 73, s. 1, *amended*.

MUNICIPAL BOARDS OF EDUCATION

2.—(1) Subject to the approval of the Minister first being obtained, where a high school district does not extend beyond the limits of the municipality, the council of a city, town, village or township may, on or before the 1st day of July in any year, pass a by-law establishing a municipal board for the district, whereupon the elective members of the board shall be elected at the next ensuing municipal election, and the members to be appointed shall be appointed and the board organized in accordance with this Act.

Municipal
board in
district
comprising
one
municipality.

(2) Such by-law may be passed notwithstanding that a union board already exists in the municipality.

By-law may
be passed
where union
board exists.

(3) Upon the organization of the board, all the property theretofore vested in any high school board, public school board or union board within the district shall become vested

Assets and
liabilities
vested in
municipal
board.

in the municipal board, and all debts, contracts and agreements for which the previous boards were liable shall become obligations of the municipal board. 1949, c. 8, s. 2.

Municipal board in district comprising two or more municipalities.

3.—(1) Subject to the approval of the Minister, where a high school district which includes two or more municipalities or parts thereof comprises the same area as a township school area, or a township school area and one or more adjoining school sections, or two or more adjoining school sections, the council of the county or the councils of the counties in which the high school district has been established shall, on or before the 1st day of July in any year, upon the receipt of a resolution from the council of each of the municipalities within the district declaring that it is expedient to form a municipal board for the district, pass a by-law establishing a municipal board for the district, whereupon the elective members of the board shall be elected at the next ensuing municipal election, and the members to be appointed shall be appointed and the board organized in accordance with this Act.

Assets and liabilities of board, and cost of operation.

(2) Upon the organization of the board,

- (a) all the property theretofore vested in any high school board or public school board within the district shall become vested in the municipal board;
- (b) all debts, contracts and agreements for which the previous boards were liable shall become obligations of the municipal board; and
- (c) the cost of operating the schools under the jurisdiction of the board shall be apportioned, levied and collected *mutatis mutandis* in the manner provided by section 49 of *The High Schools Act*. 1948, c. 8, s. 3, *part*.

Rev. Stat., c. 165.

Municipal board in unorganized territory.

Rev. Stat., c. 165.

4. Where a high school district has been established by the Lieutenant-Governor in Council under subsection 5 of section 5 of *The High Schools Act*, the Lieutenant-Governor in Council may authorize the formation of a municipal board for the district, and may provide for the composition of the board and the term of office of the members thereof, and for all other purposes the provisions of this Act shall apply to the board. 1948, c. 8, s. 3, *part*.

Municipal board for adjoining municipalities in territorial districts.
Rev. Stat., c. 165.

5.—(1) Subject to the approval of the Minister first being obtained, where a high school district has been established by two or more adjoining municipalities in a territorial district under *The High Schools Act*, the councils of the adjoining

municipalities may, on or before the 1st day of July in any year, pass by-laws establishing a municipal board for the district, whereupon the elective members of the board shall be elected at the next ensuing municipal elections, and the members to be appointed shall be appointed and the board organized in accordance with this Act.

(2) Upon the organization of the board, the provisions of subsection 2 of section 3 shall apply. 1949, c. 8, s. 3, *part*. Assets and liabilities.

6. A by-law establishing a municipal board may be passed notwithstanding that the by-law or by-laws establishing the high school district have not come into effect, and in such case no high school board shall be organized under *The High Schools Act*. 1949, c. 8, s. 3, *part*. By-law although high school district not in effect. Rev. Stat., c. 165.

7.—(1) Except as hereinafter provided every municipal board shall be composed as follows: Composition of municipal boards.

- (a) In a city having a population of 50,000 or more, of fourteen members, twelve of whom shall be elected as hereinafter provided and two of whom shall be appointed by the separate school board of the city;
- (b) In a city having a population of less than 50,000, of ten members, nine of whom shall be elected as hereinafter provided and one appointed by the separate school board of the city; R.S.O. 1937, c. 361, s. 3 (1), cls. (a, b).
- (c) In a town, village or township, of eight members, seven of whom shall be elected as hereinafter provided and one appointed by the separate school board of the town, village or township; R.S.O. 1937, c. 361, s. 3 (1), cl. (c); 1943, c. 26, s. 2.
- (d) Subject to clause e, where there is no separate school board the board shall be composed of the elected members only; R.S.O. 1937, c. 361, s. 3 (1), cl. (d).
- (e) In the case of a municipal board having jurisdiction over a high school situate in a municipality not separated from the county, for high school purposes, the council of such county at its first meeting in the year following the passing of the by-law mentioned in section 2 may appoint an additional member or additional members of the board, as authorized by *The High Schools Act*; R.S.O. 1937, c. 361, s. 3 (1), cl. (e); 1938, c. 35, s. 2; 1939, c. 44, s. 1, *amended*.

- (f) When by reason of increased population additional representation on a board becomes necessary the appointment shall be made and the election shall take place of the additional members at the regular time for the next ensuing year, and the election of such members and of those required to replace retiring members shall be decided together in accordance with subsection 12. R.S.O. 1937, c. 361, s. 3 (1), cl. (f).

Elected
members of
board.

(2) Where a municipal board is established for two municipalities, a municipality having a population within the high school district, according to the last revised assessment roll, of,

- (a) less than 1,000 shall elect two members;
- (b) 1,000 but less than 3,000 shall elect three members;
- (c) 3,000 but less than 6,000 shall elect four members;
and
- (d) 6,000 or more shall elect five members.

Idem.

(3) Where a municipal board is established for three or more municipalities, a municipality having a population within the high school district, according to the last revised assessment roll, of,

- (a) less than 1,000 shall elect one member;
- (b) 1,000 but less than 3,000 shall elect two members;
- (c) 3,000 but less than 6,000 shall elect three members;
- (d) 6,000 but less than 10,000 shall elect four members;
and
- (e) 10,000 or more shall elect five members.

Part of a
municipality
not deemed a
municipality.

(4) A part of a municipality which is assessed for school purposes in the high school district for less than \$50,000 shall not be deemed a municipality for the purposes of subsections 2 and 3.

Appointed
members
of board.

Rev. Stat.,
c. 165.

(5) In addition to the members elected under subsection 2 or 3, one member may be appointed by a county council in the manner provided in subsection 4 of section 18 of *The High Schools Act*, and one member may be appointed by a

separate school board in the manner provided in section 23 of *The High Schools Act*. 1948, c. 8, s. 4 (1), *part*.

(6) A board shall not be deemed incomplete by reason only of the failure of an appointing body to appoint the member or members which it has the right to appoint. Effect of failure to appoint.

(7) The members to be elected shall be elected by the general vote of the persons qualified to vote for public school trustees, and the election shall be held at the same time and place, by the same returning officer and in the same manner as the election of a mayor or reeve, and, save as otherwise provided, all the provisions of *The Public Schools Act* respecting the qualification of trustees and the election of trustees by ballot shall apply to the election. R.S.O. 1937, c. 361, s. 3 (2, 3). Mode of election.

(8) Notwithstanding the residence qualification prescribed in *The Public Schools Act*, a person who is a ratepayer of a municipality which, or any part of which, is included in the high school district, and who resides within five miles of the boundaries of the district, shall, unless otherwise disqualified, be qualified to be a member of the municipal board of the district. 1948, c. 8, s. 4 (1), *part*. Residence qualification. Rev. Stat., c. 316.

(9) The first election shall take place at the time of holding the municipal elections in the year in which the by-law or by-laws establishing the board is or are passed, but nothing in this Act shall affect any board having jurisdiction over any public school, high school or technical school during the year in which such by-law is passed. R.S.O. 1937, c. 361, s. 3 (4), *amended*. First election of members of board.

(10) Every person qualified to vote shall be entitled to as many votes as there are members to be elected, but may not give more than one vote to any one candidate. Number of votes for candidates.

(11) At the first election the full number of elective members shall be elected. R.S.O. 1937, c. 361, s. 3 (5, 6). First election after organization.

(12) Where a municipality elects more than one member, one-half of the members so elected where the number of elected members is an even number, and the next number higher than one-half where the number of elected members is an odd number, who receive the highest number of votes, shall continue in office for two years thereafter and until their successors are elected and the new board is organized, and the remaining members shall continue in office for one year and until their successors are elected and the new board is organized. R.S.O. 1937, c. 361, s. 3 (7); 1948, c. 8, s. 4 (2). Terms of office of first members.

Where one member elected.

(13) Subject to subsection 14, where a municipality elects only one member, he shall continue in office for two years and until his successor is elected and a new board is organized.

Where several municipalities elect one member.

(14) Where two or more municipalities each elect only one member, the sequence of retirement of those members shall be determined by lot to be cast by the secretary at the first meeting of the board, and one-half of such members where the number of such members is an even number and the next number higher than one-half where the number of such members is an odd number, shall continue in office for two years and until their successors are elected and a new board is organized, and the remainder of those members shall continue in office for one year and until their successors are elected and a new board is organized. 1948, c. 8, s. 4 (1), *part*.

Retirement where members have equal votes.

(15) Where two or more members receive an equal number of votes at the first election or where the full number of members to be elected are elected by acclamation and no agreement as to which of them shall retire is reached at the first meeting of such board, then at the next meeting the question shall be determined by lot to be cast by the secretary in the presence of the board, and the result shall be entered upon the minutes of the meeting.

Subsequent elections.

(16) At each annual election after the first a sufficient number of members shall be elected for two years to fill the place of members retiring.

Retiring members eligible for re-election.

(17) The members retiring at the expiration of the terms for which they were respectively elected or appointed shall be eligible for re-election or re-appointment if otherwise qualified.

Appointment by separate school board.

(18) The appointment of a member or members by the separate school board shall be made at the first meeting thereof in the year in which the first election of the municipal board is held and at its first meeting in every second year thereafter.

Term of office.

(19) Any member so appointed shall hold office for two years and until his successor is appointed.

Members of appointing body not eligible.

(20) No member of a body having the right to appoint a member of a municipal board of education shall be eligible for appointment or election as a member of the board. R.S.O. 1937, c. 361, s. 3 (8-13).

Annual election of board, vote of rate-payers on question.

8.—(1) The council of any municipality may at any time before the 1st day of October in any year submit to the vote of the persons qualified to vote for public school trustees the ques-

tion "Are you in favour of the annual election of the members of the board of education?" and in case the question is answered in the affirmative by a majority of the electors voting thereon, all the elective members of the board shall be elected annually, and the clerk of the municipality shall notify the secretary of the board of education, in writing, of the result of the voting, and all the members of the board shall cease to hold office on the 31st day of December of the same year.

(2) The council of any municipality in which the members of the municipal board of education have been elected annually for five years under subsection 1, may before the 1st day of October in any year submit to the vote of the persons qualified to vote for public school trustees the question "Are you in favour of the members of the board of education holding office for a term of two years?" and in case the question is answered in the affirmative by a majority of the electors voting thereon, all the elective members of the board shall thereafter be elected for a term of two years in accordance with section 7, or where the same applies section 9, and the clerk of the municipality shall notify the secretary of the board of education in writing of the result of the voting, and all the members of the board then in office shall cease to hold office on the 31st day of December of the same year.

Adoption of two-year term for members of board.

(3) Whenever members of a board of education are elected under subsection 2, elections thereunder shall continue to be held for a period of not less than six years before the members may again be elected under subsection 1. R.S.O. 1937, c. 361, s. 4.

Return to one-year term.

9.—(1) The council of a city having a population of not less than 100,000 may at any time before the 1st day of October in any year submit to a vote of the persons qualified to vote for public school trustees the question "Are you in favour of electing the board of education by wards?". R.S.O. 1937, c. 361, s. 5 (1); 1949, c. 8, s. 4 (1).

Election of members by wards in cities of 100,000.

(2) In case the question is answered in the affirmative by a majority of the persons voting thereon the clerk of the city shall notify the secretary of the board of education in writing of the result of the voting, and all the members of the board of education shall cease to hold office on the 31st day of December of the same year, and thereafter the board shall consist of two members to be elected in each ward of such city and two members who shall be appointed by the separate school board. R.S.O. 1937, c. 361, s. 5 (2).

How board to be constituted if question answered in affirmative.

(3) The question provided for in subsection 1 may be submitted notwithstanding that the by-law establishing a municipal board for the city has not come into effect, and in

Submission of question where by-law not in effect.

case the question is answered in the affirmative by a majority of the persons voting thereon, the elective membership of the municipal board shall consist of two members to be elected in each ward of the city. 1949, c. 8, s. 4 (2).

First
election.

(4) At the first election held after the question has been so answered in the affirmative the requisite number of members shall be elected, and in each ward the two candidates receiving the highest number of votes shall be elected, and as between themselves the candidate having the larger number of votes shall continue in office for two years and the other for one year, and until their respective successors have been elected under this Act and the new board organized.

Term of
office.

(5) At each annual election after the first the term of office of each elected member shall be two years.

Application
of Rev. Stat.,
c. 316.

(6) All the provisions of *The Public Schools Act* respecting the qualification and election of trustees shall apply to the election of such members.

Application
of general
provisions.

(7) Save as in this section is otherwise provided the provisions of this Act shall apply to a board of education organized under this section. R.S.O. 1937, c. 361, s. 5 (3-6).

Vote on
repeal of
by-law for
election of
board by
wards.

10. The council of any city which has passed a by-law under section 9 may at any time before the 1st day of October in each year submit to the persons qualified to vote for a public school trustee the question "Are you in favour of repealing the by-law for electing the board of education by wards?" and if the question is answered in the affirmative by the majority of the electors voting thereon, the election shall thereafter be conducted in the manner provided by section 7. R.S.O. 1937, c. 361, s. 6.

Vacancies
in cases of
elected
members.

11.—(1) Where the office of an elected member becomes vacant from any cause before the expiration of the term for which he was elected, a majority of the remaining elected members present shall, at the first regular meeting after the vacancy occurs, elect some duly qualified person to fill the vacancy, and the person so elected shall hold office for the remainder of the term for which his predecessor was elected.

Casting
vote.

(2) In case of an equality of votes the elected member having the largest number of votes at his election shall have a second or casting vote.

Vacancies
within one
month of
annual
election.

(3) Where a vacancy occurs within one month of the time for the next ensuing annual election it shall not be filled in the manner provided by subsection 1, but the office shall remain

vacant until the annual election and if the term of the vacant office then expires a new trustee shall be elected or if the term of the vacant office does not then expire some duly qualified person shall be elected at such annual election to fill the vacancy for the unexpired term of office for which his predecessor was elected. R.S.O. 1937, c. 361, s. 7.

12.—(1) Where the office of an appointed member becomes vacant from any cause before the expiration of the term for which he was appointed, the vacancy shall be filled forthwith by the appointing body, and the person appointed to fill the vacancy shall hold office for the remainder of the term for which his predecessor was appointed. Vacancies in cases of appointed members.

(2) When an appointing body fails to appoint a member at the prescribed time, the appointment may be made subsequently, but the term of office of the person appointed shall expire as if he had been appointed at the time prescribed. R.S.O. 1937, c. 361, s. 8. Failure to appoint at prescribed time.

13. Unless a date for the first meeting has been decided upon by the old board the first meeting of every municipal board in each year shall be held at the hour of eight o'clock in the evening of the second Wednesday in January. R.S.O. 1937, c. 361, s. 9; 1948, c. 8, s. 5. First meeting each year.

14.—(1) Every municipal board shall be a corporation and shall have and possess all the powers and perform all the duties which by this or any other Act are conferred or imposed upon a public school board or a high school board. Powers and duties of board.

(2) The name of a municipal board which has jurisdiction in one municipality shall be "The Board of Education for the of", inserting the name of the municipality. Name of board.

(3) The name of a municipal board which has jurisdiction in more than one municipality shall be "The District Board of Education", inserting a name selected by the board and approved by the Minister. 1948, c. 8, s. 6. Idem.

15. Where a municipal board is organized under this Act in a municipality any union board of education then existing therein shall thereby be dissolved. R.S.O. 1937, c. 361, s. 11. Dissolution of union board.

16.—(1) If at a meeting of a municipal board of education specially called for that purpose, a majority of the members of the board vote in favour of a dissolution of such board, a copy of the resolution shall be submitted forthwith to the Dissolution of municipal board, question submitted to electors.

municipal council with the request that the question "Are you in favour of dissolution of the municipal board of education?" be submitted to a vote of the electors of the municipality.

Board dissolved upon affirmative vote.

(2) The council shall at the next municipal election submit the question to a vote of the electors, and in case the question is answered in the affirmative by a majority of the electors voting thereon, the municipal board of education shall be dissolved on the 31st day of December of the year in which the vote is taken.

High school and public school board established.

Rev. Stat., cc. 165, 316.

(3) Upon the dissolution of the municipal board of education, a high school board and a public school board shall be established in the municipality, and the provisions of *The High Schools Act* and *The Public Schools Act* shall apply with reference to the appointment of high school trustees and the election of public school trustees respectively.

Disposition of assets and liabilities.

(4) Upon the dissolution of the municipal board of education, all property held or possessed by the board for high school purposes shall vest in the high school board and all property held or possessed by the board for public school purposes shall vest in the public school board, and all debts, contracts and agreements for which the municipal board was liable, shall become obligations of the high school board or the public school board as the case may be.

in the event of dispute.

(5) In the event of a dispute as to the division of the property and debts of the municipal board of education, the division shall be made by the municipal council, whose decision shall be final.

Municipal board of education dissolved upon enlargement or dissolution of high school district.

(6) Where a high school district for which a municipal board of education has been formed is dissolved or enlarged to include other municipalities, the municipal board of education shall *ipso facto* be dissolved and a high school board and a public school board shall be established for the municipality as provided in subsection 3. 1946, c. 6, s. 1.

UNION BOARDS OF EDUCATION

Formation of union boards.

17.—(1) A high school board of a high school district which is composed of a municipality, a part of a municipality, two or more municipalities or parts thereof in which a municipal board has not been organized and the board of public school trustees of a school section which is composed of the same area as such high school district may unite as a union board of education on filing with the clerk of each municipality

which or part of which is included in the high school district certified copies of resolutions providing for such union passed at separate meetings of each of the boards called for the purpose of considering such union. R.S.O. 1937, c. 361, s. 12 (1); 1949, c. 8, s. 5.

(2) The union shall take effect on the day fixed under this Act for the first meeting in each year of a union board, next following the passing of the resolutions, and upon the formation of such union board all property theretofore vested in the boards so uniting shall become vested in the union board, and all debts, contracts, agreements and obligations of the boards so uniting shall become debts, contracts, agreements and obligations of the union board.

Powers,
rights and
duties of
former
school
boards.

(3) The members of the high school and public school boards forming the union who are then in office shall continue in office until the expiration of the terms for which they were respectively appointed or elected and shall be the members of the union board, and the trustees for such public and high schools shall continue to be appointed and elected as if the union had not been formed and when so appointed or elected shall be the members of the union board. R.S.O. 1937, c. 361, s. 12 (2, 3).

Trustees of
union board.

18. Every union board shall be a corporation by the name of "The Board of Education for (*naming the municipality in which the high school is situate*)", and such corporation shall have all the powers, perform all the duties and be subject to all the obligations of high school and public school boards. R.S.O. 1937, c. 361, s. 13.

To be a
corporation.

19.—(1) If at a meeting of a union board specially called for that purpose a majority of all the members of the board vote in favour of the dissolution thereof the board shall be dissolved on the date fixed for holding the first meeting of a union board in any year next following such vote.

Dissolution
of union
boards.

(2) Where a board is dissolved the members thereof who are high school trustees shall constitute the high school board and shall continue in office for the remainder of the terms for which they were respectively appointed, and the members thereof who are public school trustees shall constitute the public school board and shall continue in office for the remainder of the terms for which they were respectively elected.

Trustees to
continue in
office.

(3) Upon the dissolution all property held or possessed by the union board for high school purposes shall forthwith vest in the high school board, and all property held or possessed by

Division of
property.

the union board for public school purposes shall forthwith vest in the public school board, and all property held or possessed by the union board at the time of its dissolution partly for high school and partly for public school purposes shall be divided as may be agreed upon by such high school and public school boards at a meeting called for that purpose.

When council to make division.

(4) If no division is made within six months after the dissolution the division shall be made forthwith by the council of the local municipality in which the high school is situate. R.S.O. 1937, c. 361, s. 14.

First meeting in each year.

20. Unless all members of the new board have been appointed and a date for the first meeting has been decided upon by the old board, the first meeting of every union board in each year shall be held at the hour of eight o'clock in the evening of the second Wednesday in January. R.S.O. 1937, c. 361, s. 15; 1948, c. 8, s. 7.

GENERAL PROVISIONS

Proceedings at first meetings.

21.—(1) The first meeting of every municipal and union board after its organization or formation shall be held in the room, if any, provided for the board in the municipal building, and, if no room is provided, at the usual place of meeting of the former public school board, and the first meeting in subsequent years shall be held at such place as the board shall determine.

Election of chairman.

(2) At the first meeting of every new municipal board and union board, and whenever the office of chairman becomes vacant, then at the first meeting of the board after the vacancy occurs, the members shall elect one of their number to be chairman of the board.

Casting vote.

(3) In case of an equality of votes the elected member who has received the largest number of votes at his election shall have a second or casting vote.

Vice-chairman.

(4) The members of the board may also elect one of their number to be vice-chairman and he shall preside in the absence of the chairman.

Temporary chairman.

(5) If at any meeting neither the chairman or vice-chairman is present the members present may elect a chairman for that meeting.

Secretary-treasurer.

(6) At the first meeting after the organization or formation of the board, and so often as a vacancy occurs, the board shall also elect a secretary and a treasurer or a secretary-treasurer who shall hold office during the pleasure of the board.

(7) At any meeting of a board at which a chairman is to be elected the secretary, if present, shall preside until the chairman is elected, and if the secretary is not present the members present may elect one of their number for that purpose. Who to preside during election of chairman.

(8) In the absence of the secretary from any meeting the chairman or other member presiding may appoint any member or person present to act as secretary for that meeting. R.S.O. 1937, c. 361, s. 16. Acting secretary.

22. The presence of a majority of all the members constituting a board shall be necessary to form a quorum, provided that at any meeting of the board at which public school matters alone are under consideration, a majority of the elected members of the board shall form a quorum. R.S.O. 1937, c. 361, s. 17. Quorum.

23. The chairman or vice-chairman or member presiding may vote with the other members on all questions, and, subject to the provisions hereinbefore contained as to a second or casting vote where there is an equality of votes at an election of chairman, any question on which there is an equality of votes shall be deemed to be negatived except in case of an equality of votes for the election of a secretary or a treasurer, or secretary-treasurer, when the chairman or other presiding officer shall have a second or casting vote. R.S.O. 1937, c. 361, s. 18. When chairman may vote.

24. A municipal board of a high school district which comprises two or more municipalities or parts thereof may pay to each member a mileage allowance not exceeding 7 cents for each mile necessarily travelled by him in going to the meetings of the board from his home and in returning to his home, and may pay to each member a sum not exceeding \$5 for each of not more than 12 meetings attended by him in any one year. 1949, c. 8, s. 6. Mileage allowance and fee for attendance at meetings.

25. The provisions of *The Public Schools Act* and of *The High Schools Act* respecting the disqualification of persons from being elected or appointed to, and from sitting and voting as members of public school boards and high school boards respectively, and respecting members resigning or vacating their offices, shall apply to all boards. R.S.O. 1937, c. 361, s. 19. Disqualification. Rev. Stat., cc. 316, 165.

26.—(1) Every board of education having jurisdiction over more than one high school, with the approval of the Minister, may, Special and advanced courses of study in high schools.

- (a) make such modifications of the school courses prescribed for the high, industrial, technical and art schools under its jurisdiction as it deems expedient;

- (b) provide for special or advanced instruction in any of such courses;
- (c) designate such schools, or any of them, English, commercial, technical, industrial, art or classical high schools, according to the course or courses of instruction provided therefor.

Application
of
regulations.

Rev. Stat.,
c. 94.

(2) The accommodations and equipment of the school and the qualifications of the staff shall be subject to the regulations made under *The Department of Education Act*. R.S.O. 1937, c. 361, s. 20.

Restriction
upon mem-
ber who is
separate
school
supporter.

27. A member of a board who is a separate school supporter, or who is appointed by the county council, shall not vote or otherwise take part in any of the proceedings of the board exclusively affecting the public schools. R.S.O. 1937, c. 361, s. 21.

This Act to
be read with
certain other
Acts.

Rev. Stat.,
cc. 316, 165,
413.

28. The provisions of *The Public Schools Act*, *The High Schools Act* and *The Vocational Education Act*, which are not inconsistent with this Act, shall be read as part of this Act and so far as such provisions are inconsistent with the provisions of this Act they shall not apply to municipal boards or union boards. R.S.O. 1937, c. 361, s. 22.

Appropriation
of
property for
purposes of
board.

29. A board of education may appropriate any property acquired by it or in its possession or control for any of the purposes of the board but where public school property is appropriated for high school purposes the public school shall be credited with the value of the property so appropriated and where high school property is appropriated for public school purposes the high school shall be credited with the value of the property so appropriated. R.S.O. 1937, c. 361, s. 23.

CHAPTER 39

The Bread Sales Act

1. In this Act,Interpre-
tation.

- (a) "bake shop" means any building, premises, workshop, room or place in which bread is made for sale, or sold;
- (b) "inspector" means an inspector appointed by a municipal council under this Act or a member of the Ontario Provincial Police Force. R.S.O. 1937, c. 305, s. 1.

2. The council of every city, town and village, shall, and the council of every township may, appoint an inspector for the purpose of enforcing this Act. R.S.O. 1937, c. 305, s. 2.

3.—(1) Every person conducting a bake shop shall do so only under a licence to be issued by the municipality, and under regulations and conditions prescribed by by-law of the municipality, and no licence shall be issued until the medical officer of health gives a certificate that all regulations and conditions have been fully complied with.

(2) Any licence issued hereunder may be revoked by the council of the municipality.

(3) The fee for the licence shall not exceed \$1. R.S.O. 1937, c. 305, s. 3.

4.—(1) Except as provided in subsection 2, no person shall make bread for sale or sell or offer for sale bread except in loaves weighing 16, 24 or 48 ounces avoirdupois. R.S.O. 1937, c. 305, s. 4 (1); 1947, c. 7, s. 1.

(2) Small-bread may be made for sale, offered for sale and sold in any weight not exceeding 12 ounces avoirdupois. R.S.O. 1937, c. 305, s. 4 (2).

5. Every person making bread for sale shall keep in a conspicuous and convenient place in the bake shop scales and weights suitable for weighing bread, and shall weigh the bread

offered for sale by him at the request of any person desiring to purchase the same, and the inspector may use such scales at any time for the purpose of weighing bread found by him in the bake shop. R.S.O. 1937, c. 305, s. 5.

Penalty for making bread, etc., contrary to Act.

6. Every person who makes for sale or sells or offers for sale bread in contravention of the preceding sections, or who neglects to comply with section 5, shall be guilty of an offence. R.S.O. 1937, c. 305, s. 6.

Penalty for using deleterious material.

7.—(1) Every person who uses an adulterant or deleterious material in the making of bread for sale, or who knowingly sells or offers for sale any bread containing adulterant or deleterious material shall be guilty of an offence, and shall also be liable as part of the costs of conviction to pay any expenses incurred in procuring an analysis of such bread.

Prima facie evidence of offence.

(2) The keeping in any place where bread is made for sale of any adulterant or deleterious material which may be used in the making of bread shall be *prima facie* evidence of an offence against subsection 1. R.S.O. 1937, c. 305, s. 7.

Penalty for interfering with inspector.

8. Every person who refuses the inspector admittance to his bake shop or who interferes with the inspector in the performance of his duties shall be guilty of an offence. R.S.O. 1937, c. 305, s. 8.

Inspector's powers.

9.—(1) An inspector may at any time prior to the delivery to a purchaser, weigh any bread made or offered for sale, and may take away any bread and cause the same to be tested for the purpose of determining if any adulterant or deleterious material has been used in the making thereof.

Destruction of adulterated bread.

(2) If the bread is found to contain any such adulterant or deleterious material, the inspector shall destroy the same.

Disposal of light-weight bread.

(3) Where the inspector, upon weighing the bread, finds that it is of less than the prescribed weight, he shall seize and remove the bread and hand the same over to some charitable institution. R.S.O. 1937, c. 305, s. 9.

Duties of inspector.

10. It shall be the duty of the inspector to see that this Act is complied with, and he shall make a report quarterly to the council showing the prosecutions taken and the quantity of bread seized or tested under this Act. R.S.O. 1937, c. 305, s. 10.

When penalty not be imposed.

11. No person shall be liable to the penalties prescribed by this Act for making or offering for sale short-weight bread

unless in the case of a manufacturer there be found at least ten short-weight loaves and in the case of a retailer there be found at least five short-weight loaves, at one time, but all short-weight loaves shall nevertheless be liable to seizure as hereinbefore provided. R.S.O. 1937, c. 305, s. 11.

12. The certificate of the analyst or assistant analyst of the Department of Health in writing stating the result of any test made by him under the Act and purporting to be signed by him shall be *prima facie* evidence of the facts therein set forth, and shall be receivable without proof of the signature or of the official character of the person who appears to have signed the same in any prosecution under this Act. R.S.O. 1937, c. 305, s. 12.

13. Every person guilty of an offence under this Act shall on summary conviction be liable to a penalty of not less than \$10 and not more than \$100 for the first offence, and not less than \$25 and not more than \$200 for the second or any subsequent offence. R.S.O. 1937, c. 305, s. 13.

CHAPTER 40

The Bridges Act

1. This Act shall apply to,Application
of Act.

- (a) every river or stream or part thereof of which the bed is vested in His Majesty in right of Ontario; and
- (b) every place upon a river or stream where His Majesty in right of Ontario, or any board or commission constituted under any Act of this Legislature, is a riparian owner. 1938, c. 2, s. 2.

2.—(1) No bridge or other structure shall be built, placed or constructed over or across any river or stream or part thereof, nor shall any bridge or other structure over or across any river or stream or part thereof be rebuilt, replaced or altered where the cost of such building, placing, constructing, rebuilding, replacing or altering will exceed \$2,000, except with the approval of the Lieutenant-Governor in Council.

Approval of
Lieutenant-
Governor in
Council.

(2) In such cases as he may deem proper the Lieutenant-Governor in Council may approve of the building, placing, constructing, rebuilding, replacing or altering of any such bridge or other structure upon receiving,

Conditions
of approval.

- (a) a petition praying for such approval;
- (b) proof that the plan of the proposed bridge or alterations and a surveyor's description of the site or proposed site have been deposited with the Minister of Highways and in the proper registry office or land titles office; and
- (c) proof that notice of such application has been published for three successive weeks in *The Ontario Gazette* and in two newspapers having a general circulation in the locality where the site or proposed site of the bridge is located. 1938, c. 2, s. 3.

3.—(1) No person shall build, place, construct, operate or maintain any bridge the cost of which is in excess of \$2,000, unless such person is,

Who may
build
bridge.

- (a) a person domiciled and ordinarily resident within Ontario;
- (b) a corporation incorporated under the laws of Canada;
- (c) a corporation incorporated under the laws of Ontario;
or
- (d) a corporation licensed under *The Extra-provincial Corporations Act*.

Rev. Stat.,
c. 124.

Where
bridge
operated,
etc., con-
trary to
subs. 1.

(2) Where a bridge is built, placed, constructed, operated or maintained contrary to subsection 1, such bridge or so much thereof as is within Ontario shall, subject to any direction of the Lieutenant-Governor in Council, be deemed to be the property of His Majesty in right of Ontario. 1938, c. 2, s. 4.

Regulations.

4. The Lieutenant-Governor in Council may make regulations regarding the building, placing, constructing, rebuilding, replacing, alteration, operation, maintenance and control of bridges and other structures over or across any river, stream or part thereof including the exemption of any commission constituted under any Act of the Legislature or any railway company from any of the provisions of this Act. 1938, c. 2, s. 5.

CHAPTER 41

The Building Trades Protection Act

1. In this Act,

Interpretation.

(a) "building" includes any structure roofed in or intended to be roofed in and capable when completed of affording protection and shelter;

(b) "inspector" means an inspector appointed by a municipal council or by the Lieutenant-Governor in Council for the purpose of enforcing this Act. R.S.O. 1937, c. 195, s. 1.

2. The council of every city, town, township and village shall, by by-law, appoint a sufficient number of competent persons to be inspectors for the purpose of enforcing this Act in the municipality. R.S.O. 1937, c. 195, s. 2.

3. The Lieutenant-Governor in Council may appoint inspectors to enforce this Act in territory without municipal organization. R.S.O. 1937, c. 195, s. 3.

4.—(1) Where an inspector finds that any provision of this Act is being violated in the case of any building, he may give such orders in writing as may, in his opinion, be required to secure due compliance with such provision, and upon any such order being made and until the same is carried out the work upon that part of the building in which the default occurs shall be suspended.

(2) Every person to whom the order of the inspector is directed who disobeys or who knowingly permits any person under his direction and control to disobey any such order or to carry on work in violation of subsection 1 before the order is carried out shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$50 for every day upon which the default occurs. R.S.O. 1937, c. 195, ss. 4, 12.

5. In the erection, alteration, repair, improvement or demolition of any building, no scaffolding, hoists, stays, ladders, flooring or other mechanical and temporary contrivances shall

be used which are unsafe, unsuitable or improper, or which are not so constructed, protected, placed and operated as to afford reasonable safety from accident to persons employed or engaged upon the building. R.S.O. 1937, c. 195, s. 5.

Require-
ments,
general.

6. The following requirements shall be complied with in the erection, alteration, repair, improvement or demolition of every building:

Scaffolding.

1. The floors of all scaffolding whether standing or suspended from overhead shall be at least four feet wide and there shall be a railing or guard not less than three feet nor more than four feet from the flooring on the outside of the scaffolding for the protection of persons working thereon.

Suspended
scaffolding.

2. Where the scaffolding or staging is swung or suspended from an overhead support it shall be so secured as to prevent its swaying to and fro.

Securing
scaffolding.

3. Where poles are used in scaffolding the poles shall be securely lashed at every point of contact, and where square timber is used in scaffolding the same shall be securely spiked or bolted at every point of contact.

Hoisting
lumber or
timber.

4. No lumber or timber shall be hoisted in a single sling.

Protection
of shafts
for hoists.

5. Where hoists are used for raising materials for use in buildings, the shafts or openings shall be protected at each floor by a barrier not less than three feet nor more than four feet from the level of the floor, and the barrier shall be placed not less than two feet from the edge of the shaft or opening in which the hoist is operated. R.S.O. 1937, c. 195, s. 6.

Require-
ments as to
completion
of arched
floors, etc.

7.—(1) Where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fire-proof material, the flooring or filling in shall be completed as the building progresses to not less than within three tiers of beams below that on which the ironwork is being erected.

Completion
of floor
where fire-
proof filling
not required.

(2) Where the plans and specifications do not require filling in between the beams of floors with fire-proof material or brickwork, the contractor for the carpenter work in the course of construction shall lay the underflooring of the building on each storey as the building progresses to not less than within two storeys below the one to which the building has been erected.

(3) Where double floors are not to be used, such contractor shall keep planked over the floor two storeys below the storey where the work is being performed. Where double floors not used.

(4) If the floor beams are of iron or steel, the contractor for the ironwork or steelwork of a building in course of construction or the owner of such a building shall thoroughly plank over the entire tier of iron or steel beams on which the structural ironwork or steelwork is being erected, except such spaces as may be reasonably required for the proper construction of such ironwork or steelwork and for the raising or lowering of materials to be used in the construction of such building, and such spaces as may be designated by the plans and specifications for stairways and elevator shafts. R.S.O. 1937, c. 195, s. 7. Where floor beams of iron or steel.

8. In the case of what are known as skeleton steel-frame buildings, compliance with the following requirements shall be sufficient and it shall not be necessary to comply with the requirements of section 7: Skeleton steel-frame buildings.

1. As soon as the steel frame of a building is erected to the first column-splice above the first floor-level, a flooring of two inch planking shall be laid over floor beams on the floor immediately below the first column-splice, making a temporary floor over that part of the area of the building inside columns at that level, except in places where it is necessary to have openings for the passage of material for building above that point, and when erection has reached a point level with the next column-splice, the planking used as temporary floor at first column-splice shall be removed and placed as before at second splice, and so on to the top of the building. Temporary flooring.
2. A double flooring of two-inch planking shall be laid down immediately under any derrick for a sufficient space about the derrick to protect workmen on the floors below that on which the derrick is working and to hold with safety the materials hoisted by the derrick. Double flooring where derrick in use.
3. Rivetters' staging shall be so constructed as to secure the reasonable safety of the rivetters and a temporary floor shall be provided on the girders and floor beams immediately below the portion of the floor upon which the rivetters are working, sufficient for the protection of workmen engaged below that floor. Rivetters' staging.

Steelwork
in advance
of permanent
flooring.

4. The steelwork may be carried on in advance of the construction of permanent floors. R.S.O. 1937, c. 195, s. 8.

In cities
and towns.

9. In cities and towns the following requirements shall be complied with in erecting, altering or repairing any building:

Passageway
in front of
buildings in
course of
erection.

1. When the work is located on the line of any street or within three feet of the inside line of the sidewalk of any street, before any of the work above the sidewalk or footway is commenced, there shall be erected over the sidewalk or footway of the street a covered passageway or independent structure not less than eight feet high at the lowest side above the level of the sidewalk or footway and of sufficient strength to protect the public using the sidewalk or footway.

Barricade.

2. If a building is to be erected within seven feet of the inside line of the sidewalk on any street, a strongly constructed close-boarded fence or barricade, not less than six feet high, shall be erected along the inside line of such sidewalk.

Free passage
of water.

3. No person shall place any stone, brick, lumber, or any building material, fence, barricade or temporary sidewalk so as to obstruct the free passage of water in the drains, gutters or water courses, and the roofs of all covered ways shall be kept clear of any material whatever. R.S.O. 1937, c. 195, s. 9.

Saving of
powers of
municipalities.

10. Nothing in this Act shall affect any by-law relating to the matters mentioned herein lawfully passed by a municipal council, or the authority of a municipal council to pass any such by-law, so far as such by-law imposes additional or more stringent requirements than those imposed by this Act. R.S.O. 1937, c. 195, s. 10.

Restriction
on applica-
tion of Act.

11. Sections 6, 7 and 8 shall not apply to any building not more than two storeys in height nor to any farm building nor to any work being done upon a building by the owner or occupant thereof in person. R.S.O. 1937, c. 195, s. 11.

CHAPTER 42

The Bulk Sales Act**1. In this Act,****Interpre-**
tation.

- (a) "assets" means stock-in-trade, fixtures, book debts, bills of exchange, promissory notes, cash on hand and in bank, machinery, equipment, real estate, securities of all kinds, stocks and shares, and any other property both real and personal;
- (b) "creditor" means a person to whom the owner of any stock as defined by this Act is indebted, whether the debt is due and owing or not yet payable, and includes any surety and the endorser of any promissory note or bill of exchange who would upon payment by him of the debt, promissory note or bill of exchange in respect of which such suretyship was entered into or such endorsement given, become a creditor of such owner;
- (c) "judge" means a judge of the county or district court of the county or district in which the vendor's stock is located at the time of the sale or intended sale thereof;
- (d) "stock" means,
 - (i) stock of goods, wares, merchandise and chattels, ordinarily the subject of trade and commerce,
 - (ii) the goods, wares, merchandise or chattels in which any person trades, or which he produces or which are outputs of, or with which he carries on any business, trade or occupation;
- (e) "trustee" means any person appointed by the vendor to act as trustee and who has lodged a bond to the judge marked as satisfactory by the judge, by way of security in respect to his trusteeship with the clerk of the county court of the county or district in which the stock is located at the

time of the sale or intended sale thereof, or any person appointed by the vendor with the consent in writing of his creditors holding claims of not less than 50 per cent in value of the amount of such claims as shown by the statement (Schedule) or means such person as shall, on the summary application of any person interested, be appointed as trustee by the judge;

- (f) "vendor" includes each and every person, firm or corporation owning or claiming to own the stock or any individual share or interest therein. R.S.O. 1937, c. 184, s. 1.

Purchaser
to procure
written
statement
as to
creditors
of vendor.

2. It shall be the duty of every person who bargains for, buys or purchases any stock in bulk, for cash or on credit, before closing the purchase of the same and before paying the vendor any part of the purchase price (save as hereinafter provided), or giving any promissory note or notes or any security for the purchase price to demand and receive from the vendor, and it shall be the duty of each vendor of the goods to furnish a written statement verified by statutory declaration of the vendor or his duly authorized agent, or if the vendor is a corporation, by the declaration of the president, vice-president, secretary-treasurer or manager of the corporation, which statement shall contain the names and addresses of all the creditors of the vendor, together with the amounts of the indebtedness or liability due and payable by the vendor to each of the creditors, which statement may be in the form set forth in the Schedule hereto; provided that it shall be competent for a purchaser of any stock to pay to the vendor a sum not exceeding \$50 on account of the purchase price for the purpose of constituting a binding agreement for the purchase of the stock, before obtaining the statement as aforesaid. R.S.O. 1937, c. 184, s. 2.

Sale without
purchaser
procuring
statement.

3. Whenever any person bargains for or purchases any stock in bulk, for cash or on credit, and pays any part of the purchase price or executes or delivers to the vendor or to his order, or to any person for his use, any promissory note or other document for or on account of the purchase price of the goods, or any part thereof, without first having demanded and obtained from the vendor or from his agent, a statutory declaration purporting to be such as is provided for in section 2, then the sale shall be deemed to be fraudulent and shall be void as against the creditors of the vendor, unless all the creditors of the vendor are paid in full out of the proceeds of the sale. R.S.O. 1937, c. 184, s. 3.

4.—(1) Any such purchaser, upon obtaining such statutory declaration, shall either obtain written waiver from the creditors of the vendor hereinafter referred to or shall pay the whole of his purchase money or deliver his promissory note or notes or other documents securing the same into the hands of a trustee for distribution *pro rata* among the creditors of the vendor, and subject to any preferences provided for by law or by previous contract, such distribution shall be made in like manner as moneys are distributed by an assignee under *The Assignments and Preferences Act*, and in making such distribution all creditors' claims shall be proved in like manner, shall be subject to the like contestation and entitled to the like priorities as in the case of a distribution under the said Act, and the creditors, trustee and debtor shall in all respects have the same rights, liabilities and powers as the creditors, assignee and debtor have under the said Act.

Waiver by creditors or application of purchase money to debts of vendor.

Rev. Stat., c. 26.

(2) The fee of any such trustee shall not exceed three per cent of the total proceeds of such sale which come to his hands, and shall, together with any disbursements made by him, be paid by being deducted out of the moneys to be received by the creditors, and shall in no event be charged to the debtor; provided that where the gross or total proceeds of such sale exceed the aggregate amount of the total claims of creditors, the trustee shall be entitled only to deduct an amount not exceeding three per cent and his disbursements from the moneys to be received by the creditors, and the balance of any fees that such trustee may be entitled to under this section shall be deducted from the balance of the moneys remaining in his hands after creditors have been paid.

Limitation of fees of trustees.

(3) From and after the furnishing of the statement and declaration provided for by this Act, no preference or priority shall be obtainable by any creditor by attachment, garnishee proceedings, contract or otherwise. R.S.O. 1937, c. 184, s. 4.

No preference for creditors.

5. If such purchaser, upon receiving such statutory declaration, fails to observe the requirements of section 4 without obtaining the written waiver from creditors hereinafter referred to, then such sale shall be deemed to be fraudulent, and shall be void as against the creditors of the vendor, unless all creditors of the vendor are paid in full out of the proceeds of such sale. R.S.O. 1937, c. 184, s. 5.

Sale void if waiver not procured or purchase money not applied as required by Act.

6.—(1) Any sale or transfer of stock, or part thereof, out of the usual course of business or trade of the vendor, or whenever substantially the entire stock of the vendor is sold or conveyed, or whenever an interest in the business or trade

What to be deemed a sale in bulk.

of the vendor is sold or conveyed, such sale, transfer or conveyance shall be deemed "a sale in bulk" within the meaning of this Act; provided that if the vendor produces and delivers to the vendee a written waiver of this Act from his creditors having claims of \$50 and over, representing 60 per cent in number and value of the claims of \$50 and over as shown by the statutory declaration, then this Act shall not apply.

Sale void if proceeds insufficient.

(2) Where the total amount of any sale in bulk is for a sum less than an amount sufficient to pay 60 per cent of the claims of all creditors of the vendor, from the proceeds of such sale, or where the term of payment extends beyond one year from the date of purchase and sale and there is not sufficient to pay 60 per cent of the claims of all the creditors of the vendor within the year, then in all such cases the sale shall be deemed to be fraudulent and void as against the creditors of the vendor; provided that a sale shall not be liable to be set aside or declared void under this Act, if the vendor submits to his creditors a statement of his affairs at the time of the proposed sale, verified by a statutory declaration of the vendor or his authorized agent, or if the vendor is a corporation, by the declaration of the president, secretary-treasurer or manager of the corporation, and thereafter produces and delivers to the purchaser the written waiver from his creditors having claims of \$50 and over, representing 60 per cent in number and value of the claims of \$50 and over.

Statement of affairs.

(3) The statement of affairs to be given under subsection 2 shall contain the names and addresses of all the creditors of the vendor together with the amounts of the indebtedness liable, due and payable by the vendor to each of his creditors, which statement may be in the form set forth in the Schedule hereto, and in addition a statement of all his assets. R.S.O. 1937, c. 184, s. 6.

Sales under judicial process not affected.

7. Nothing in this Act shall apply to or affect any sale by executors, administrators, liquidators, receivers, assignees for the benefit of creditors or any public official acting under judicial process. R.S.O. 1937, c. 184, s. 7.

Limitation of action to set aside sale.

8. No action shall be brought or proceedings had or taken to set aside or have declared void any sale in bulk for failure to comply with this Act, unless such action is brought within 60 days from the date of the sale or within 60 days from the date when the creditor attacking the sale first received notice thereof. R.S.O. 1937, c. 184, s. 8.

Appointment of trustee by judge.

9. Upon the application of any person interested, if the vendor has not appointed a trustee the judge shall by order

appoint a trustee, and a fee of \$1 shall be payable in law stamps on every such order. R.S.O. 1937, c. 184, s. 9.

10. Upon the application of any person interested, the judge, on being satisfied that the condition of the bond has been broken, may order the clerk to assign the bond to some person to be named in the order, and such person shall thereupon be entitled to sue on the bond in his own name, as if the bond had been originally given to him, and shall recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond and the judge trying the suit may order the bond to be re-assigned to the judge to whom it was originally made or may make such other disposition of the bond as he deems fit. R.S.O. 1937, c. 184, s. 10.

11. The bond given by any trustee may be delivered up to be cancelled by the direction of the judge. R.S.O. 1937, c. 184, s. 11.

SCHEDULE

(Section 2)

STATEMENT SHOWING NAMES AND ADDRESSES OF ALL CREDITORS OF

Name of Creditors.	Post Office Add.	Nature of Indebtedness.	Amount.	When Due.
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I, of
in the Province of Ontario, do solemnly declare that the above is, to the
best of my knowledge and belief, a true and correct statement of the
names and addresses of all creditors and shows
correctly the amount of indebtedness or liability due, owing, payable or
accruing due, or to become due and payable by
to each of the said creditors.

(If the declaration is made by an agent, add: I am the duly authorized
agent of the vendor and have a personal knowledge of the matter herein
declared to.)

Or if the vendor is a corporation:

I, of
in the Province of Ontario, do solemnly declare that the above is, to the
best of my knowledge and belief, a true and correct statement of the
names and addresses of all the creditors of the
Company, and shows correctly the amount of the indebtedness or liability
due, owing, payable or accruing due, or to become due and payable by
such Company to each of the said creditors, and that I am the
..... of the said Company, and have a personal knowledge of
the matter herein declared to.

And I make this solemn declaration, conscientiously believing it to be
true and knowing that it is of the same force and effect as if made under
oath and by virtue of the *Canada Evidence Act*.

Declared before me at the....
..... of
in the Province of Ontario,
this..... day of.....,
A.D. 19.....

A Commissioner.

R.S.O. 1937, c. 184, Sched. A.

CHAPTER 43

The Burlington Beach Act

1. The locality composed of the lands described in the Schedule hereto together with any other lands now or hereafter vested in the commission and all accretion to such lands shall continue to form and be known as Burlington Beach under and subject to the jurisdiction of the commission. R.S.O. 1937, c. 95, s. 1.

2. The corporation heretofore known as the "Burlington Beach Commission", herein called the "commission", is continued and shall consist of not less than two and not more than five persons who shall be appointed, and one of them designated as chairman, by the Lieutenant-Governor in Council and who shall hold office during pleasure. R.S.O. 1937, c. 95, s. 2.

3.—(1) Except as otherwise provided in this Act, the commission shall, with respect to Burlington Beach and the government and administration of its affairs and of its inhabitants, be deemed to be a municipal corporation and council of a city for the purposes and within the meaning of *The Municipal Act*, *The Local Improvement Act*, *The Assessment Act*, and every other general Act relating to municipal institutions.

(2) Except as otherwise provided in this Act, the commission with respect to Burlington Beach and the government and administration of its affairs and of its inhabitants shall also for the purposes and within the meaning of the following Acts be deemed to be,

- (a) *The Public Schools Act*, an urban public school board;
- (b) *The Public Health Act*, a local board of health;
- (c) *The Public Utilities Act* and *The Power Commission Act*, a commission having the management and control of a public utility;
- (d) *The Public Libraries Act*, a public library board;

- (e) *The Municipal Act*, a board of commissioners of police;
- (f) *The Public Parks Act*, a board of park management; and
- (g) for the purposes of any other general Act pursuant to which the council of a city may appoint any board, commission or other body, such board, commission or other body.

Property
vested in
commission.

(3) Except as to property of the Crown all real property and accretions thereto and personal property, and any interest therein, now vested in the commission and all rights, powers and privileges now belonging to or exercisable by the commission shall continue to be vested in, belong to and be exercisable by the commission. R.S.O. 1937, c. 95, s. 3 (1-3).

Collection
of revenues
from pro-
perty and
sale, etc., of
such
property.

(4) With respect to property now or hereafter vested in the commission or which it may manage or control, it may demand, collect and recover from any person having the occupation or use thereof any money due for rent or otherwise and with the approval of the Lieutenant-Governor in Council may dispose of, by sale, lease or otherwise, any such property, provided that the commission may, without such consent, dispose of by sale, lease or otherwise any property purchased by the commission at a tax sale. R.S.O. 1937, c. 95, s. 3 (4); 1940, c. 28, s. 4.

Separation
from county
and town-
ship for
local
purposes.

4.—(1) Burlington Beach shall continue to be and remain separate and withdrawn from the County of Wentworth and Township of Saltfleet for municipal and school purposes. R.S.O. 1937, c. 95, s. 4 (1).

Burlington
Beach to
be part of
county for
judicial
purposes.

Rev. Stat.,
c. 243.

(2) For judicial purposes, Burlington Beach shall continue to remain a portion of the said county, and notwithstanding anything in *The Municipal Act* or in any other Act, the commission shall pay to the Corporation of the County of Wentworth on or before the 1st day of December in each year the sum of \$650, or such other sum as may be determined by written agreement between the commission and the said Corporation filed with the Department of Municipal Affairs, in full satisfaction of all liability to the said county. 1941, c. 55, s. 4.

For
provincial
electoral
purposes
Burlington
Beach to
be part
of township.

(3) For purposes of elections to the Assembly, Burlington Beach shall continue to remain a portion of the Township of Saltfleet and all persons in Burlington Beach possessing the necessary qualifications shall for the said purposes be entitled to be placed on the voters' lists of the said township; and

for the said purposes the secretary of the commission shall annually, within 30 days after the return of the annual assessment roll of Burlington Beach, prepare and furnish to the clerk of the said township a list of persons so qualified and for his information shall furnish all particulars required in preparing a voters' list pursuant to *The Voters' Lists Act*. Rev. Stat., c. 414.
 R.S.O. 1937, c. 95, s. 4 (3).

5.—(1) At the first meeting of the commission in each year one of the members shall be elected as vice-chairman for the year who, in the absence of the chairman, shall have all the rights, powers, privileges and duties of the chairman, and in the absence at any meeting of the commission of the chairman and vice-chairman, the remaining members present shall elect one of their number to preside at such meeting. Vice-chairman of commission.

(2) The chairman of the commission and, in his absence, the vice-chairman shall have all the rights, powers, privileges and duties of the mayor of a city. Status of chairman.

(3) A majority of the members of the commission shall be necessary to form a quorum. Quorum.

(4) The commission shall have a common seal which shall be affixed to or impressed on all its by-laws, contracts and engagements. Common seal.

(5) No action of any kind whatsoever shall be brought against the commissioners or any of them, personally, for anything done or omitted to be done under the authority of this or any other Act, without the consent of the Lieutenant-Governor in Council. Protection of members of commission from suit.
 R.S.O. 1937, c. 95, s. 5.

6. No by-law, resolution, transaction or proceeding of the commission shall for its validity require to be submitted to or receive the assent of the inhabitants, electors or ratepayers of Burlington Beach. By-laws, etc., not to require electoral approval.
 R.S.O. 1937, c. 95, s. 6.

7.—(1) The commission shall appoint a secretary thereof who, subject to the by-laws of the commission shall, with respect to Burlington Beach and the administration of its affairs and of its inhabitants, have and may exercise all the authority, power and rights and shall perform all the duties which, by statute or by-law, are or may be conferred or imposed upon the clerk, treasurer, assessment commissioner and collector of a city and the secretary and treasurer of the several boards, commissions and other bodies referred to in section 3. Powers and duties of secretary.

(2) The commission may by by-law confer or impose upon the secretary the powers and duties of any other officer who may be appointed by the council of a city and when so con- Additional powers and duties.

ferred or imposed the secretary shall have authority and duty to exercise and perform the same.

Powers and
duties of
other
officers of
commission.

(3) The commission may appoint such assessors, assistant collectors and other officers, servants and employees as it may deem requisite for its purposes and confer upon them such authority and impose upon them such duties as to the commission may seem expedient.

Officers to be
appointed
during
pleasure.

Rev. Stat.,
c. 243.

(4) The secretary and every other officer, servant and employee of the commission shall hold office during its pleasure and the provisions of section 251 of *The Municipal Act* with respect to furnishing surety shall apply to them. R.S.O. 1937, c. 95, s. 7.

Auditor.

8.—(1) The commission shall appoint an auditor to hold office during pleasure who shall monthly or otherwise, as the commission may require, audit all accounts affecting the commission.

Annual
audit
report.

(2) The auditor shall on or before the 15th day of February in each year make and submit to the commission, in duplicate, an annual audit report upon the accounts, affairs and transactions of the commission of the preceding calendar year, and shall at the same time transmit a triplicate copy thereof to the Department of Municipal Affairs.

Powers and
duties of
auditor.

(3) The auditor shall have the same authority, power and duty as the auditor of a city.

Publication
of audit
report.

(4) The commission shall as soon as the annual report of the auditor is received cause one copy thereof to be and remain posted up in a public place in its office where it may be inspected at any ordinary office hours by any adult inhabitant of Burlington Beach, and the commission shall within one month after receipt of the annual audit report either cause to be published once a week for two weeks in a daily newspaper published in the City of Hamilton or by such other means as the Department of Municipal Affairs may approve make available to the ratepayers of Burlington Beach such extracts from, summaries of or information from the auditor's report as the said Department may prescribe.

Provincial
audit
powers.

(5) Any officer of the Government of Ontario, authorized by the provincial Auditor or the said Department, may at any time inspect and audit the accounts, books and records of the commission. R.S.O. 1937, c. 95, s. 8.

Powers and
duties of
police force.

9. The chief constable and every other member of the police force appointed by the commission for Burlington

Beach shall have the same authority, power and immunities and shall perform the same duties as are conferred and imposed upon the chief constable and members of the police force of a city. R.S.O. 1937, c. 95, s. 9.

10. The secretary, as assessment commissioner, and any assessor appointed by the commission shall, with respect to Burlington Beach, have and may exercise all the powers and authorities and shall perform all the duties of an assessment commissioner and assessor of a city under *The Assessment Act* and any other general Act for the purposes of the said Acts. R.S.O. 1937, c. 95, s. 10.

11.—(1) The provisions of *The Municipal Act*, *The Assessment Act* and any other Act relating to assessment and taxation for municipal and school purposes, liens in respect thereof and rights and means for collection and enforcement of payment of rates and taxes and as to penalties and interest to be added thereto and discounts therefrom shall apply to Burlington Beach, the commission and its officers in the same manner and to the same extent as if Burlington Beach were a city, and all the powers and duties of an assessment commissioner and of an assessor for a city shall be exercisable and be performed by the secretary of the commission as assessment commissioner and by any assessor appointed by it.

(2) The commission may by by-law provide for the taking of the assessment of the rateable property at Burlington Beach at and during such time of the year as it may determine, notwithstanding that such time may be different from that mentioned in section 53 of *The Assessment Act*, and such by-law shall provide for the time when the assessment roll shall be returned, appeals to the court of revision and to the judge shall be heard and the roll shall finally be revised.

(3) The court of revision shall be composed of three persons to be appointed by the commission to hold office during pleasure, and it shall not be necessary that any of such persons be a member of the commission.

(4) An appeal shall lie from the decision of the court of revision to the judge of the county court of the County of Wentworth. R.S.O. 1937, c. 95, s. 11 (1-4).

12.—(1) The commission for any of its purposes shall have and may exercise any of the powers of the corporation and council of a city with respect to the incurring of debt, borrowing of money and issuing of debentures.

Approval of
Municipal
Board.

Rev. Stat.,
c. 262.

(2) The provisions of *The Ontario Municipal Board Act*, with respect to such debts, borrowings and debentures shall apply as if Burlington Beach were a municipality and as to the approval of the Ontario Municipal Board being obtained in respect thereof. R.S.O. 1937, c. 95, s. 12 (1, 2).

Application
of Rev. Stat.,
c. 243.

(3) The provisions of *The Municipal Act* as to the issue, sale and hypothecation of debentures, the borrowing of money for capital or current purposes and the imposition and levying of rates for the payment of any debentures issued, money borrowed and interest thereon shall apply to the commission, except that it shall not be necessary in any case that the assent of any of the inhabitants, ratepayers or electors be thereto requisite. R.S.O. 1937, c. 95, s. 12 (4).

Application
of part of
Rev. Stat.,
c. 372.

13.—(1) Sections 3, 8 and 38 of *The Statute Labour Act* shall apply to Burlington Beach and the inhabitants thereof and to the commission in the same manner and to the same extent as if Burlington Beach were a city.

When fines
to be paid to
commission.

(2) Every money penalty for an offence against any statute or by-law which if committed in a city would become payable to the corporation thereof shall, if the offence is committed in Burlington Beach, become payable and shall be paid to the commission and form part of its revenues. R.S.O. 1937, c. 95, s. 13.

Payment of
cost of
secondary
education.

Rev. Stat.,
c. 165.

14. The commission may enter into agreements with any school board of a municipality respecting the admission to a high school or vocational school under the jurisdiction of such board, of pupils who are not entitled to attend the same as resident pupils and who or whose parents or guardians are resident in Burlington Beach and for the payment of fees for the education of such pupils as in the case of the council of a municipality under section 54 of *The High Schools Act*, and the commission may in each year levy the necessary rates for the payment of such fees as part of its general rates upon the whole of the rateable property in Burlington Beach according to the last revised assessment roll thereof. R.S.O. 1937, c. 95, s. 14.

Reports, etc.,
to be made
to Depart-
ment of
Municipal
Affairs.

15. The commission shall furnish to the Department of Municipal Affairs such annual and other returns and reports as to the affairs of Burlington Beach and of the commission as the said Department may from time to time require or prescribe. R.S.O. 1937, c. 95, s. 15.

SCHEDULE

(Schedule 1)

All those parcels or tracts of land and premises known as portions of Burlington Beach in the Township of Saltfleet, as shown and coloured red on parts of a plan of survey by Thomas C. Brownjohn, P.L.S., dated Hamilton, September 25th, 1874, of record in the Department of Lands and Forests, which are abutted and bounded as follows:

First. Commencing at the point A as shown on the plan in the southern limit of the County of Halton; thence easterly along that limit to the easterly shore of the Beach at the point B as shown on the plan; thence southerly along the said Beach to the point C as shown on the plan at the intersection of the northerly limit of the Burlington Canal Reserve; thence westerly along the northerly limit of the Reserve to the westerly shore of the Beach at the point D as shown on the plan; thence northerly along the Beach to the point A as shown on the plan, the place of beginning;

Second. Commencing at the point E on the plan in the southern limit of the Burlington Canal Reserve; thence easterly along that limit to the easterly shore of the Beach at the point F as shown on the plan; thence southerly along the Beach to the point G as shown on the plan, being the point of intersection with the north side of the road between Lots Nos. 28 and 29 in the 1st Concession of the Township of Saltfleet, produced easterly to the Beach; thence westerly along the northerly side of that road produced to the westerly shore of the Beach at the point H as shown on the plan; thence northerly along the said Beach to the point E as shown on the plan, the place of beginning;

Third. The Burlington Canal Reserve;

Fourth. The promontory extending into Burlington Bay from the Beach, which is not coloured red on the plan, and which promontory extends from a point a little north of the northerly boundary of the lands granted to Frank E. Walker by letters patent dated 18th May, 1896, southerly to a point opposite the lands granted to James Crooks by letters patent dated 7th April, 1897;

Fifth. Lands under the waters of Burlington Bay and Lake Ontario adjoining the Beach and to a distance into the said waters of five hundred feet parallel to and measured from high water mark at the Beach.

R.S.O. 1937, c. 95, Sched. A.

CHAPTER 44

The Business Records Protection Act

1. No person shall pursuant to or under or in a manner which would be consistent with compliance with any requirement, order, direction or subpoena of any legislative, administrative or judicial authority in any jurisdiction outside of Ontario, take or cause to be taken, send or cause to be sent or remove or cause to be removed from a point within Ontario to a point outside of Ontario, any account, balance sheet, profit and loss statement or inventory or any resume or digest thereof or any other record, statement, report or material in any way relating to any business carried on in Ontario unless such taking, sending or removal,

Business records not to be taken from Ontario.

(a) is consistent with and forms part of a regular practice of furnishing to a head office or parent company or organization outside of Ontario material relating to a branch or subsidiary company or organization carrying on business in Ontario;

(b) is done by or on behalf of a company or person as defined in *The Securities Act*, carrying on business in Ontario and as to a jurisdiction outside of Ontario in which the securities of such company or person have been qualified for sale with the consent of such company or person;

Rev. Stat. c. 351.

(c) is done by or on behalf of a company or person as defined in *The Securities Act*, carrying on business in Ontario as a broker, broker-dealer, investment dealer or salesman as defined in *The Securities Act*, and as to a jurisdiction outside of Ontario in which such company or person has been registered or is otherwise qualified to carry on business as a broker, broker-dealer, investment dealer or salesman, as the case may be; or

(d) is provided for by or under any law of Ontario or of the Parliament of Canada. 1947, c. 10, s. 1; 1950, c. 7, s. 1.

2.—(1) Where the Attorney-General or any person having an interest in a business as mentioned in section 1 has reason

Undertaking and recognition.

to believe that a requirement, order, direction or subpoena as mentioned in section 1 has been or is likely to be made, issued or given in relation to such business, he may apply to a judge or local judge of the Supreme Court in chambers for an order requiring any person, whether or not such person is named in the requirement, order, direction or subpoena, to furnish an undertaking and recognizance for the purpose of ensuring that such person will not violate section 1 and the judge may make such order as he may deem proper.

Contempt
of court.

(2) Every person who, having received notice of an application under this section, violates this Act shall be deemed to be in contempt of court and liable to one year's imprisonment.

Idem.

(3) Every person required to furnish an undertaking or recognizance who violates this Act shall be in contempt of court and in addition to any penalty provided by the recognizance shall be liable to one year's imprisonment. 1947, c. 10, s. 2.

Procedure.

3. The practice and procedure of the Supreme Court shall apply to every application made under this Act. 1947, c. 10, s. 3.

CHAPTER 45

The Cancer Remedies Act

1. In this Act,

Interpre-
tation.

(a) "Commission" means The Commission for the Investigation of Cancer Remedies appointed under this Act;

(b) "Minister" means Minister of Health. 1938, c. 4, s. 2.

2.—(1) The Lieutenant-Governor in Council may appoint a commission to be known as "The Commission for the Investigation of Cancer Remedies" which shall be a body corporate and the member or members of the Commission shall hold office during the pleasure of the Lieutenant-Governor in Council.

Commis-
sion,
appoint-
ment of.

(2) Where there is more than one member of the Commission,

Chairman;
quorum.

(a) the Lieutenant-Governor in Council may appoint one of the members of the Commission to be chairman;

(b) a majority of the members of the Commission shall constitute a quorum and a majority vote of the members present at any meeting of the Commission shall determine any question. 1938, c. 4, s. 3.

3.—(1) The objects of the Commission shall be to investigate, approve, disapprove, encourage or report upon any substance or method of treatment which is believed to be, or likely to be, or is advertised, held out to be or used as a remedy for cancer, and the Commission may take such measures as it deems necessary to accomplish such objects.

Objects of
Commission.

(2) The funds of the Commission shall consist of any moneys received by it from any source, including any moneys appropriated for its use by the Parliament of Canada, the Legislature or the King George V Silver Jubilee Cancer Fund, and the Commission may disburse, expend or otherwise deal with any of the funds of the Commission as it deems proper.

Funds.

Commission
may enter
into agree-
ments.

(3) Subject to the approval of the Lieutenant-Governor in Council, the Commission may enter into agreements with any university, medical association, hospital or other association, corporation or person for the purpose of carrying out the objects of the Commission.

Officers,
clerks and
servants.

(4) The Commission may employ officers, clerks and servants and may engage the services of experts and other persons and may pay any such officer, clerk, servant, expert or other person such remuneration as it deems proper out of the funds of the Commission.

Remunera-
tion of
members
of
Commission.

(5) The members of the Commission shall be paid such remuneration out of the funds of the Commission as the Lieutenant-Governor in Council may determine. 1938, c. 4, s. 4.

Commission
to furnish
financial
statement.

4. The Minister may require the Commission to furnish him with a financial statement showing all moneys received and disbursed by the Commission and may require the provincial Auditor or any other qualified auditor to conduct an audit of the funds of the Commission and the cost of such audit shall be paid out of the funds of the Commission. 1938, c. 4, s. 5.

Submission
of samples
of treatment.

5.—(1) The Commission may require any person who advertises, offers for sale, holds out, distributes, sells or administers either free of charge or for gain, hire or hope of reward, any substance or method of treatment as a remedy for cancer to submit samples of such substance or a description of such treatment and samples of any substance used with such treatment to the Commission together with the formula of such substance and such other information pertaining to such substance or method of treatment as the Commission may determine. 1938, c. 4, s. 6 (1).

Information
not to be
divulged.

(2) The Commission shall not divulge any information relating to the composition or formula of any substance received by it, except to a person authorized by the Commission to investigate such substance. 1938, c. 4, s. 6 (2); 1940, c. 28, s. 5 (1).

Oath of
secrecy.

(3) The Commission may administer an oath in such form and manner as it may determine, binding any such person not to divulge information furnished to him. 1940, c. 28, s. 5 (2).

Investigation
of
treatment.

6. Where any substance or method of treatment is submitted to the Commission under section 5, the Commission

shall cause such substance or method of treatment to be investigated, and upon the conclusion of such investigation, shall make a determination or finding as to the merit or value as a remedy for cancer of such substance or method of treatment; provided that the Commission may at any time before concluding its investigation make such determination or finding of a temporary nature as it deems proper, and every determination or finding of the Commission shall be recorded in the minutes of the Commission. 1938, c. 4, s. 7.

7. The Commission shall make a report of any determination or finding relating to any substance or method of treatment to, ^{Reports.}

(a) the Minister; and

(b) the person who has submitted such substance or method to the Commission for investigation,

and the Minister may publish such report in such manner as he may deem proper. 1938, c. 4, s. 8.

8. No action in libel or slander or otherwise shall lie or be ^{Action} ^{against} ^{Commission.} instituted against the Minister, the Commission, any member of the Commission or any officer, clerk or servant employed by the Commission or any expert or other person engaged by the Commission whether in the public or private capacity of such Minister, member, officer, clerk, servant, expert or other person in respect of any act or omission in connection with the administration or carrying out of this Act. 1938, c. 4, s. 9.

9. Every person who violates any of the provisions of this ^{Penalty.} Act or who fails or neglects to obey any order, direction or requirement of the Commission shall be guilty of an offence and for a first offence shall be liable on summary conviction to a penalty of not less than \$100 and not more than \$500, and in default of payment of any such penalty, to imprisonment for a term of not more than thirty days, and for a second or subsequent offence shall be liable on summary conviction to a penalty of not less than \$500 and not more than \$2,500, and in default of payment of any such penalty, to imprisonment for a term of not more than six months. 1938, s. 4, s. 10.

CHAPTER 46

The Cemeteries Act

1. In this Act,

Interpre-
tation.

- (a) "cemetery" means any land which is set apart or used as a place for the interment of the dead or in which human bodies have been buried;
- (b) "columbarium" means any structure designed for the purpose of storing the ashes of human remains which have been cremated;
- (c) "crematorium" means a building fitted with the proper appliances for the purpose of the incineration and cremation of human remains, and includes everything incidental or ancillary thereto;
- (d) "Department" means Department of Health;
- (e) "local board" means the local board of health of a municipality in which it is proposed to establish or in which there is a cemetery;
- (f) "Minister" means Minister of Health;
- (g) "owner" means the person owning, controlling or managing a cemetery;
- (h) "regulations" means regulations made by the Lieutenant-Governor in Council under this Act. R.S.O. 1937, c. 351, s. 1; 1941, c. 10, s. 1, *amended*.

2. A cemetery shall not be established or enlarged until the approval of the Department has been applied for and obtained in the manner hereinafter provided. R.S.O. 1937, c. 351, s. 2.

3. An application for such approval shall be made in writing to the local board, and the applicant shall submit therewith a detailed plan and description in duplicate of the land proposed to be acquired or used for cemetery purposes together with such other information as the regulations may require. R.S.O. 1937, c. 351, s. 3.

Transmission
to
Department.

4. The application and one of the duplicates of the plan and description of the land and all other material filed with the application shall be transmitted to the Department together with a statement of the opinion of the local board thereon. R.S.O. 1937, c. 351, s. 4.

Approval.

5.—(1) The approval of the Department shall be by order in writing signed by the Minister or Deputy Minister and shall contain a sufficient description of the cemetery proposed to be established or of the land which is to be annexed to the existing cemetery. R.S.O. 1937, c. 351, s. 5 (1); 1939, c. 5, s. 1 (1).

Registration.

(2) The order may be registered in the proper registry or land titles office, and upon its registration the cemetery may be established or enlarged as the order may direct. R.S.O. 1937, c. 351, s. 5 (2).

Revocation
of approval.

(3) The approval of the Department may be revoked by an order in writing signed by the Minister or Deputy Minister, and thereafter the land mentioned in the order shall not be used for the interment of the dead until a further approval has been issued. 1939, c. 5, s. 1 (2).

Penalty.

6. Every person who establishes a cemetery and uses it, or enlarges any cemetery, without the approval of the Department, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$500. R.S.O. 1937, c. 351, s. 6.

Expenses.

7. The expenses of the Department shall be paid by the applicant. R.S.O. 1937, c. 351, s. 7.

Regulations.

8.—(1) The Lieutenant-Governor in Council may upon the recommendation of the Minister make regulations,

- (a) respecting the burial, disinterment, removal, and disposal of the bodies or other remains of deceased persons;
- (b) respecting the plans, surveys, arrangement, condition, care, sale and conveyancing of lots, plots and other cemetery grounds and property;
- (c) respecting the erection, arrangement and removal of tombs, vaults, monuments, gravestones, markers, copings, fences, hedges, shrubs, plants and trees in cemeteries;

- (d) respecting charges for the sale and care of lots and plots;
- (e) respecting the collection, amounts to be collected and investment of funds for perpetual care and maintenance of cemeteries;
- (f) requiring the filing or registration of plans of cemeteries and prescribing the contents and details of such plans and requiring that burials be made in accordance with such plan;
- (g) requiring that the by-laws, rules or regulations made by the owners of cemeteries be approved by the Minister;
- (h) requiring information with regard to cemeteries and the care and management thereof to be furnished to the Minister,

and such regulations may be general in their application or may be made applicable specially to any particular locality or cemetery.

(2) Every person who violates any of the provisions of the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 for a first offence and not more than \$500 for a second or subsequent offence. 1941, c. 10, s. 2.

Penalty for violation of regulations.

9.—(1) It shall be the duty of the local board and it shall have power,

Powers and duties of local boards.

- (a) to enter into and upon and to visit and inspect any cemetery within the limits of the municipality and to examine and inquire into the condition of the cemetery;
- (b) to see that the provisions of this Act and the regulations are observed and to enforce their observance by prosecution for the penalties imposed by this Act;
- (c) to call for and collect such statistical and other information as the Department may require with regard to cemeteries and the care and management thereof;
- (d) to report to the Department from time to time, upon the enforcement and administration of this Act; and

- (e) to see that every cemetery is properly fenced, kept clear of weeds and otherwise cared for in a proper manner and in accordance with this Act and the regulations.

Delegation
of power.

(2) Any of the powers conferred upon a local board by subsection 1 may be delegated to any person by the local board.

Exemption
of certain
cemeteries.

(3) Where the Lieutenant-Governor in Council is of opinion that any cemetery is being supervised and managed in a proper manner by a municipal council, board of park management or cemetery board, he may exempt such cemetery from any of the provisions of this section. 1938, c. 37, s. 4 (1), *part*.

Payment for
services.

10. The treasurer of the municipality shall forthwith upon demand pay the amount of any account for services performed under the direction of the local board or for any expenditure incurred by or on behalf of the local board in carrying out the provisions of this Act or the regulations, after the board has, by resolution, approved of the account and a copy of the resolution certified by the chairman and secretary has been filed in the office of the treasurer. 1938, c. 37, s. 4 (1), *part*.

Unorganized
territory.

11. Any powers conferred upon a local board by this Act may, in territory without municipal organization, be exercised by the Department, any medical officer of health or any sanitary inspector. 1938, c. 37, s. 4 (1), *part*.

Investigation
and report.

12. The Lieutenant-Governor in Council may appoint any person to investigate and report upon the conditions of any cemetery and the conduct of its affairs or those of any corporation or trust or individual being the owner or in control of a cemetery, and to examine and audit the books of account of any cemetery, and any person so appointed shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. 1938, c. 37, s. 4 (1), *part*.

Rev. Stat.
c. 308.

Lots
indivisible.

13. All lots or plots in a cemetery when numbered and conveyed as burial sites or lots shall be indivisible, but may afterwards be held and owned in undivided shares. R.S.O. 1937, c. 351, s. 12.

Registration
of convey-
ance not
necessary.

14. When a lot in a cemetery or a compartment in a mausoleum or columbarium has been sold for a burial site or for a deposit therein of human remains it shall not be necessary to register the conveyance nor shall such lot or compartment be affected by any judgment, execution, mortgage or encumbrance. R.S.O. 1937, c. 351, s. 13.

15. The owner of a cemetery may repurchase any lot previously sold or conveyed or any part of such lot in which no interment has been made. R.S.O. 1937, c. 351, s. 14. Repurchasing lots.

16.—(1) The owner may take and hold by grant, assignment, devise, bequest or otherwise any money or securities and apply the same in preserving, improving and embellishing the cemetery, upon the condition and in consideration of assuming and undertaking the duty and obligation of preserving and maintaining in a proper manner in perpetuity any particular lot, tomb, monument or enclosure in such cemetery or in any other cemetery or burying ground in the same municipality or in any other municipality in the same county or district, and any person may make such grant, assignment, devise or bequest upon such condition and for such consideration. Owner may accept devises, gifts, etc.

(2) The owner may also take and hold by grant, assignment or devise from the owner thereof any lot in the cemetery for the purpose of maintaining the same in perpetuity or otherwise in the manner and subject to the provisions of the instrument of grant, assignment or devise. Taking lots by grant, assignment or devise.

(3) The owner may agree to preserve and maintain in a proper manner in perpetuity the particular lot, tomb, monument or enclosure in any cemetery designated in such grant, assignment, devise, bequest or agreement. May agree to keep lots etc., in good condition.

(4) Personal representatives or trustees may pay over and transfer money or securities in their hands which they are authorized or directed to apply for or toward the purposes mentioned in this section. Payment over of bequest.

(5) For the purpose of securing the due performance of such agreement the owner shall invest the money received under the agreement in the same manner as trustees are authorized to invest trust money and out of the income of such investment perform his obligations under the agreement. Investment of funds.

(6) Every executor and trustee of an estate, the testator or settlor of which has provided a sum of money or other property for the care and upkeep of a plot or plots, or other portion of a cemetery, and the local registrar of the surrogate court from which probate issues, shall notify the owner of such cemetery, of the amount of money or other property so provided for the care and upkeep or other benefits conferred upon the cemetery of such owner immediately upon the issue of probate or at the time when such executor or trustee assumes the burden of the administration of the estate. Notice to owner of bequest or devise for perpetual care.

Payment or delivery to owner of property devised for perpetual care.

(7) The owner may call upon any executor or trustee of the estate of a testator or settlor who has bequeathed or set aside or provided any money or other property for the purpose of the upkeep or care of any lot or plot or portion of a cemetery of such owner for the payment or delivery over to the owner of such money or property to be invested as hereinbefore provided, the income thereof to be used by the owner as provided in the will of the testator or instrument of the settlor, and on default the owner may take out an appointment from the surrogate judge of the county wherein such cemetery is situate directing such executor or trustee to appear before him at such time and place as he shall appoint and upon the hearing, pursuant to such appointment, the judge shall have authority to direct payment or delivery over to the owner of such money or property or make such other disposition thereof in the premises as to him may seem meet in order to carry out fully the intention of the testator or settlor as set forth in his will or other instrument and the costs of and incidental to such application shall be in the discretion of the judge.

When amount \$200 or less.

(8) When the amount of the money or the value of the property directed to be delivered over to the owner is \$200 or under, such order may be filed in the division court of the division in which the executor, trustee or settlor resides, and in all other cases in the county court of the county wherein the executor, trustee or settlor resides, and when so filed such order may be enforced in like manner as a judgment of said respective courts.

Charges, what may and what may not be made by owner.

(9) The owner shall not make any charge in connection with the erection of monuments, tombstones, or vaults, except a reasonable charge for opening graves and constructing the foundations, or erecting such monuments, tombstones, or vaults when such erecting is done by the owner.

Payment of money on deposit in chartered banks.

(10) Where any money has been deposited with any chartered bank in Ontario to provide a fund to furnish revenue by way of interest or otherwise for the perpetual upkeep of any lot, it shall be lawful for such bank to pay such money to any owner for the purposes for which it was deposited, to be dealt with according to this Act, and the owner may give an effectual release to such bank upon receiving such money. R.S.O. 1937, c. 351, s. 15.

Owner may pay over "perpetual care" funds to Public Trustee.

17.—(1) Where moneys have come into the hands of the owner for the purpose of providing for perpetual care of graves, lots, gravestones or fences, the owner may pay such moneys over to the Public Trustee and the same shall be invested by the Public Trustee and the income therefrom paid

over by him to the owner to be applied for the purposes aforesaid.

(2) Where the owner has paid over to the Public Trustee any sum of money under subsection 1, all sums of money thereafter received by the owner for the purposes mentioned in subsection 1 shall be paid over to the Public Trustee and shall be dealt with in the like manner. R.S.O. 1937, c. 351, s. 16.

Future receipts to be dealt with in same manner.

18. The owner of any cemetery which is not operated for gain or profit, may maintain any lot, tomb, monument or enclosure which is not being properly maintained by or on behalf of the owner thereof and the reasonable charges for so doing shall be a debt due by the lot owner to the owner of the cemetery. R.S.O. 1937, c. 351, s. 17.

Right to charge owner with cost of maintenance.

19.—(1) If additional land is required for the enlargement of a cemetery and the council of the municipality in which the land is situate by by-law declares that in the opinion of the council the owner should, for that purpose, have power to appropriate any adjacent land described in the by-law, and if the Department certifies that in its opinion the proposed enlargement is for the public advantage and convenience and ought to be permitted, the owner, upon registering the by-law and certificate in the proper registry or land titles office, shall, in respect of the land described in the by-law, possess the powers conferred upon the council of a local municipality by *The Municipal Act*.

Power to acquire additional lands, etc.

Rev. Stat., c. 243.

(2) Where the owner not being a municipal corporation desires to proceed under this section, proceedings for expropriation may be initiated by notice. R.S.O. 1937, c. 351, s. 18.

How proceedings to be instituted.

20. Subject to this Act and to the regulations the owner may make regulations for the laying out and selling of lots and managing the cemetery, for regulating burials therein, the removal of bodies therefrom, the erection or removal of tombs, monuments, gravestones, vaults, copings, fences, hedges or other permanent improvements therein, the planting, placing and removal of trees, shrubs and plants in the grounds, and otherwise generally respecting the use of the grounds, and for the execution of conveyances of lots or plots in the cemetery. R.S.O. 1937, c. 351, s. 19.

Power to make regulations.

21. The owner may borrow money for the purpose of making roads in the cemetery and for laying out and improving the same, and for that purpose may mortgage all his estate, right and interest in the cemetery, but nothing herein shall

Power to borrow.

authorize the mortgagee or anyone claiming under him to use or deal with the cemetery in a manner inconsistent with the continued use of it as a cemetery or inconsistent with any provision of this Act for the preservation and protection of the same for cemetery purposes. R.S.O. 1937, c. 351, s. 20.

Duties of owner.

22.—(1) The owner shall,

- (a) keep and maintain fences about the cemetery sufficient to prevent dogs, cattle or other animals from straying therein;
- (b) keep the cemetery and the buildings and fences thereof in good order and repair; and
- (c) see that all burials within the cemetery are conducted in a decent and orderly manner, and that quiet and good order are at all times maintained therein.

Weeds.

(2) When there is no person resident in the municipality in which a cemetery is situate in charge of it, the cemetery shall be deemed non-resident land within the meaning of *The Weed Control Act*.

Rev. Stat., c. 421.

Penalty.

(3) Every default in complying with subsection 1 shall constitute an offence for which the owner on summary conviction shall be liable to a penalty of not more than \$10, and after conviction thereof shall be liable to a further penalty of \$5 for every day during which the default continues. R.S.O. 1937, c. 351, s. 21.

Sewers and drains.

23. Every owner shall make all necessary sewers and drains in and about the cemetery for draining it and keeping it dry, and may whenever necessary connect any such sewer or drain with an existing sewer with the consent in writing of the municipal corporation or other body or the person owning or controlling the highway, lane or other public communication, or the land of which any part is to be opened up for that purpose, doing as little damage as possible and restoring the same to as good condition as before the opening was made. R.S.O. 1937, c. 351, s. 22.

No offensive matter to be allowed into rivers, etc.

24.—(1) The owner shall not cause or suffer any offensive matter from the cemetery to be brought to or flow into any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place.

Penalty and liability.

(2) Every contravention of subsection 1 shall constitute an offence for which the owner on summary conviction shall be

liable to a penalty of not more than \$50, and in addition shall be liable for any damage caused thereby to any person having a right to use such water. R.S.O. 1937, c. 351, s. 23.

25.—(1) The owner shall not cause or suffer any dead body to be interred in a vault or otherwise under or within 15 feet of the outer wall of any church, chapel or other building in the cemetery. Interments not to be within 15 feet of church walls, etc.

(2) Every contravention of subsection 1 shall constitute an offence for which the owner on summary conviction shall be liable to a penalty of not more than \$50. R.S.O. 1937, c. 351, s. 24. Penalty.

26.—(1) The owner shall not permit any burial therein until he has been registered with the Registrar-General, through the division registrar of the municipality in which such cemetery is situate, as the owner of the cemetery. Owner's name to be recorded.

(2) Every contravention of subsection 1 shall constitute an offence for which the owner on summary conviction shall be liable to a penalty of not more than \$50. R.S.O. 1937, c. 351, s. 25. Penalty.

27. Where the owner neglects to keep a cemetery in good order or to erect or maintain fences as required by this Act, the local board may give notice to him to do so, specifying in the notice what he is required to do, and if such owner does not within one month after the notice comply with such requirements the local board may cause such requirements to be complied with at his expense, and may levy the cost thereof by distress and sale of the owner's goods and chattels, or may maintain an action for the recovery thereof. 1938, c. 37, s. 4 (2). Default of owner.

28.—(1) Where no interment has been made in a plot for more than twenty years and the plot owner has not maintained and kept it in a proper state of repair for more than five years or has made default for more than five years in payment of the maintenance charges referred to in section 18, a judge of the county or district court of the county or district, on the application of the owner of the cemetery and after notice has been given as provided by subsection 2 and on being satisfied that the facts are as above set out may authorize the owner of the cemetery to sell and convey that part of the plot in which no interment has been made and the proceeds of any such sale except as otherwise provided in subsection 3 shall be invested and the income derived therefrom shall be applied to the perpetual care and maintenance of that part of the plot in which an interment has been made. Provision for sale of part of lot where no interment made for 20 years.

Notice of application.

(2) Where the plot owner resides in the county or district to the knowledge of the owner of the cemetery, notice of the application shall be delivered to him personally or sent to his address by registered letter post at least four days before the time fixed for hearing the application and where he resides in some other county or district in Ontario and his place of residence is known by the owner of the cemetery the notice shall be sent to the address of his residence by registered letter post at least ten days before the time fixed for the hearing, and where the place of his residence is not in Ontario or is unknown the judge may direct what notice, if any, shall be given.

Where fund for perpetual care, maintained and lots sold.

(3) Where the owner of a cemetery which is not operated for gain or profit maintains a fund for the perpetual care of the cemetery, and plots or parts of plots are sold under this section, then the owner shall apply the proceeds received from such sale, or so much as may be available, in the following order and priority:

Firstly.—In reduction or satisfaction of all arrears due to the owner for the maintenance charges referred to in subsection 1.

Secondly.—In providing for the perpetual care of that part of the lot in which an interment has been made.

Thirdly.—Any balance remaining to be carried to the credit of the perpetual care fund maintained by such cemetery. R.S.O. 1937, c. 351, s. 27.

Graves to be provided for strangers and indigents free of charge.

29. Where the owner of a cemetery is an incorporated company or a municipal corporation it shall provide graves for strangers and for the indigent free of charge, but an incorporated company shall not be bound to do so in the case of an indigent except upon the certificate of a member of the council of the municipality or of a minister or clergyman that the relatives of the deceased are poor and cannot afford to purchase a lot in the cemetery. R.S.O. 1937, c. 351, s. 28.

Disinterment in cases of contagious diseases.

30.—(1) The dead body of a person who has died of smallpox, scarlet fever, measles, diphtheria, croup, bubonic plague, cholera, epidemic cerebro spinal meningitis, or epidemic anterior poliomyelitis shall not be disinterred, except for the purpose of transportation or reinterment and in conformity with the regulations.

Transport of dead body by railway, etc.

(2) No such dead body shall be transported by railway, steam or other vessel, or other public conveyance unless prepared in the manner provided by the regulations, and enclosed

in a hermetically sealed coffin which shall not be subsequently opened. R.S.O. 1937, c. 351, s. 29.

31.—(1) No dead body shall at any time be disinterred or removed from the grave, place of burial or vault, other than a receiving vault, except under and subject to the regulations and under the supervision and direction of the medical officer of health. R.S.O. 1937, c. 351, s. 30 (1); 1941, c. 10, s. 3.

(2) The certificate of the medical officer of health that the provisions of this Act and of the regulations have been complied with shall be affixed to the coffin or other receptacle containing the dead body before its removal from the cemetery.

(3) Every person who disinters or removes from any such grave, place of burial or vault any dead body except as hereinbefore provided, and every person who conveys or transports any such body in contravention of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$100. R.S.O. 1937, c. 351, s. 30 (2, 3).

32. Every human body interred in a cemetery, which is not placed or buried in a private vault so constructed as to prevent the escape of noxious or unhealthy gases therefrom, shall be buried so that the outside cover or shell of the coffin or other receptacle shall be at least three feet beneath the natural surface of the ground, and the coffin or other receptacle shall be immediately covered with at least three feet of earth. R.S.O. 1937, c. 351, s. 31; 1943, c. 28, s. 5.

33.—(1) Notwithstanding anything herein contained, where it is deemed necessary to disinter any dead body for the purpose of a judicial proceeding, the court in which the proceeding is pending may direct its disinterment under and subject to such conditions as to reinterment as may be deemed proper.

(2) Where the Attorney-General deems it expedient for the purpose of an inquiry as to the cause of death or for the purpose of any criminal proceeding that a body should be disinterred he may exercise the powers mentioned in subsection 1.

(3) A coroner who has issued his warrant for the holding of an inquest upon a dead body may direct it to be disinterred. R.S.O. 1937, c. 351, s. 32.

34. Where the Department reports in writing that a cemetery is so situated that, owing to the want of proper

facilities for drainage or from any other cause, the same has become or is likely to become dangerous to the health of the inhabitants of the locality or that for any reason it is expedient that a cemetery should be closed the Lieutenant-Governor in Council may declare that the cemetery shall be closed and that no further interments shall take place therein. R.S.O. 1937, c. 351, s. 33; 1941, c. 10, s. 4; 1946, c. 89, s. 9 (1).

Removal of
bodies and
reinterment
in another
cemetery.

35.—(1) Whenever a cemetery has been closed by the Lieutenant-Governor in Council as hereinbefore provided and the owner of the cemetery establishes to the satisfaction of the Lieutenant-Governor in Council that it is expedient that the bodies therein should be removed therefrom, the Lieutenant-Governor in Council may direct such removal in the manner and according to the procedure provided by this section. R.S.O. 1937, c. 351, s. 34 (1); 1946, c. 89, s. 9 (2).

Notice of
application.

(2) Before the application for an order under subsection 1 is granted the owner shall give notice of the application once a week for four successive weeks in *The Ontario Gazette* and in a newspaper published in the local municipality in which the cemetery is situate, or if there is no such newspaper then in a newspaper published in the county or district town, and by registered letter addressed to every plot owner in the cemetery whose address is known or can be ascertained by the owner.

Notice of
order to be
published.

(3) After the making of the order the owner shall forthwith give notice thereof by publication once a week for at least two successive weeks in *The Ontario Gazette* and in a newspaper published in the local municipality in which the cemetery is situate, or if there is no such newspaper then in a newspaper in the county or district town, that he will, at the expiration of thirty days from the publication of the last of such notices, disinter and remove such bodies and reinter them in the place described in the notice which shall be in some cemetery in the same or in an adjacent municipality.

Time of
removal,
and duties
of owner.

(4) At the expiration of the time fixed by such notice any bodies not removed by the relatives or friends of the deceased may be removed by the owner at his own expense, and when removed shall be reinterred by him in the cemetery mentioned in the notice.

Application
of ss. 30,
31, 32.

(5) Sections 30, 31 and 32 shall apply to such disinterment, removal and reinterment.

Removal
and re-
erection of
monu-
ments, etc.

(6) The owner shall remove all monuments or headstones or other stones marking the graves in which bodies so removed are buried, and shall re-erect or replace them in the cemetery to which such bodies are removed.

(7) If the owner satisfies a judge of the county or district court of the county or district that he has removed from the cemetery and reinterred as hereinbefore provided all the remains which with the exercise of reasonable diligence he has been able to find buried in such cemetery, the judge may certify that this section has been complied with and such certificate may be registered in the proper registry or land titles office on the production thereof. Certificate of judge.

(8) The certificate when so registered shall be conclusive evidence that the owner has removed from the land therein described all the remains there buried, and thereafter such land shall not be deemed a cemetery within the meaning of this Act but may be sold, leased or otherwise disposed of and dealt with by the owner as if it had not been a cemetery. Effect of certificate.
R.S.O. 1937, c. 351, s. 34 (2-8).

36. Where a cemetery has been closed by the Lieutenant-Governor in Council as provided by section 34, and the owner does not proceed as provided by section 35, the Lieutenant-Governor in Council may authorize any person to exercise the powers of the owner in respect of a removal directed by the Lieutenant-Governor in Council and every expense incurred by such person in so doing shall be a debt due and owing from the owner to the Crown in right of Ontario. Removal by person other than owner.
1941, c. 10, s. 5, *part.*

37.—(1) No person shall,

Prohibitions.

- (a) wilfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure placed in a cemetery, or any fence, railing or other work for the protection or ornament of a cemetery, or of any such tomb, monument, gravestone or other structure or of any lot in a cemetery;
- (b) wilfully destroy, cut, break, or injure any tree, shrub or plant in a cemetery, or wilfully injure, destroy or deface any building or structure or any road, walk or other works in a cemetery;
- (c) play at any game or sport in a cemetery;
- (d) discharge firearms in a cemetery except at a military funeral;
- (e) wilfully and unlawfully disturb persons assembled for the purpose of burying a body in a cemetery; or
- (f) commit a nuisance in a cemetery.

Penalty.

(2) Every person who contravenes any of the provisions of subsection 1 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$4 and not more than \$40.

Animals.

(3) No person shall bring any dog, goat, or cattle within the limits of a cemetery, and every person so doing shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20.

Liability to action.

(4) Every person who contravenes subsection 1 or subsection 3 shall also be liable in an action in the name of the owner of such cemetery or of a burial plot upon which such damage is done or other unlawful act committed to pay all damages occasioned by his unlawful act, and when recovered, the same shall be applied under the direction of the owner of the cemetery for the reparation and reconstruction of the property destroyed. R.S.O. 1937, c. 351, s. 35.

When municipality to maintain cemetery.

38. Where the owner of a cemetery cannot be found or is unknown or is unable to maintain it, the council of the local municipality in which the cemetery is situate shall be charged with the duty of maintaining it and the corporation of the local municipality shall for the purposes of this Act be deemed to be the owner of the cemetery. R.S.O. 1937, c. 351, s. 36 (1).

Power of municipality to expropriate.

39. The council of a local municipality may, with the approval of the Minister, pass a by-law for expropriating any cemetery situate therein or within an adjacent township or in unorganized territory and the provisions of Parts XV and XVI of *The Municipal Act* as to the taking of land compulsorily and making compensation therefor and as to the manner of determining and paying the compensation shall apply *mutatis mutandis* to the council and to the exercise by it of the powers conferred by this section. 1941, c. 10, s. 5, *part*; 1943, c. 28, s. 6 (1).

Rev. Stat., c. 243.

Power of municipality to convey cemetery.

40.—(1) Where a local municipality has expropriated a cemetery under section 39 the municipality may, with the approval of the Minister,

- (a) convey the cemetery to trustees elected in the manner provided by section 51 or to a company incorporated for the purpose of operating a cemetery upon such trusts as the council of the municipality may deem proper; and
- (b) assign to such trustees or company any money or securities held by the municipality for the purpose of providing for perpetual care of graves, lots, gravestones or fences in the cemetery.

(2) Where a municipality has conveyed a cemetery to trustees under this section, section 51 shall apply *mutatis mutandis*. 1949, c. 95, s. 3 (1). Application of s. 51.

41.—(1) Subject to sections 2 to 37 and to the regulations, By-laws. the council of every local municipality and the trustees of every police village may pass by-laws for,

- (a) making an annual or other grant of money to the owner of a cemetery situate in the municipality or the police village, or in any adjacent municipality or police village;
- (b) regulating funerals and the interment of the dead; R.S.O. 1937, c. 351, s. 37 (1), cls. (a, b).
- (c) acquiring land in the municipality or in the police village or in an adjacent township or in unorganized territory for a cemetery, or for the enlargement of an existing cemetery of which the corporation is the owner; R.S.O. 1937, c. 351, s. 37 (1), cl. (c); 1940, c. 28, s. 6.
- (d) selling or leasing portions of such land for the purpose of interment in family vaults or otherwise, and fixing the terms on which the same shall be conveyed or leased and held;
- (e) the maintenance, management, regulation and control of any cemetery which is owned by the corporation or the trustees whether situate within or without the municipality or police village. R.S.O. 1937, c. 351, s. 37 (1), cls. (d, e).

(2) No such by-law shall come into force or take effect until the same has been approved in writing by the Department. By-law to be approved by Department. R.S.O. 1937, c. 351, s. 37 (2); 1938, c. 37, s. 4 (4).

42. The council of every urban municipality and the trustees of every police village may pass by-laws for prohibiting the interment of the dead within the municipality or police village. By-laws prohibiting the interment of the dead. R.S.O. 1937, c. 351, s. 38.

43. The owner of any existing cemetery or of any land held for cemetery purposes may sell or transfer the same to any municipal corporation, or the trustees of any police village, and if the land has not been used for burial purposes, the corporation may sell the same and acquire other land in lieu of it. Power to sell to municipal corporation. R.S.O. 1937, c. 351, s. 39.

Council of city or town may transfer cemetery to board of park management.

Rev. Stat., c. 314.

44. The council of any city or town for which there is a board of park management established under *The Public Parks Act* may by by-law transfer the control and management of a cemetery vested in the corporation of the municipality to such board, and thereafter the cemetery shall be vested in the board of park management and the board shall have the control and management of the cemetery and shall be responsible for the maintenance thereof in the same manner and to the same extent as a municipal corporation owning and maintaining a cemetery under this Act. R.S.O. 1937, c. 351, s. 40.

Cemetery board in city and town.

45. The council of any city or town owning or controlling a cemetery situated either within or outside the limits of such city or town, may by by-law transfer the control and management of such cemetery to a board consisting of not less than three nor more than seven persons who shall hold office during the pleasure of the council and may by such by-law define the duties and powers of such board. R.S.O. 1937, c. 351, s. 41.

Cemetery board in township.

46.—(1) The council of a township may by by-law appoint a board consisting of not less than three nor more than seven persons who shall hold office during the pleasure of the council, and may by by-law provide that the board shall have and may exercise within the municipality all the powers and perform all the duties of a municipal council with respect to cemeteries within the township, including the powers and duties mentioned in section 38.

Board to be a corporation.

(2) The board shall be a corporation by the name of "The Cemetery Board of the Township of (*insert name of township*)" and the ownership and control of the cemeteries owned or controlled by the corporation of the township shall be vested in the board.

Cemetery board in village.

(3) The council of a village shall have the like powers as are conferred on townships by subsections 1 and 2 not only with respect to cemeteries in the village but also as to cemeteries outside the village owned and controlled by the corporation of the village. R.S.O. 1937, c. 351, s. 42.

War memorial committee, appointment;

47.—(1) The council of every county shall appoint a committee to be known as "The (*insert name of county*) War Memorial Committee" to take charge of monuments, tablets and other memorials established or erected within the county in commemoration of the nursing sisters, officers and men of His Majesty's forces who served, were wounded, killed or died during any war, except only such monuments, tablets, and other memorials as are being cared for by municipalities, churches or other organizations. R.S.O. 1937, c. 351, s. 43 (1); 1941, c. 10, s. 6.

(2) The committee shall be composed of five persons of ^{composition.} whom two shall be members of the county council and the members of the committee shall serve without remuneration. R.S.O. 1937, c. 351, s. 43 (2).

48.—(1) Where 10 or more inhabitants of a township or ^{When lands for cemetery may be vested in trustees.} part of a township desire to take a conveyance of land for a cemetery not for the exclusive use of any particular religious body, they may appoint trustees to whom and their successors appointed in the manner provided by the conveyance, the land may be conveyed.

(2) Such trustees and their successors in perpetual suc- ^{Trustees to hold in perpetual succession.} cession, by the name expressed in the conveyance, may take, hold and possess the land in trust for the uses and purposes mentioned therein and may maintain and defend actions for the protection thereof and of their property therein.

(3) Not more than 10 acres shall be held in trust under any ^{Limitation.} such conveyance. R.S.O. 1937, c. 351, s. 44.

49. Where trustees have been appointed to take a con- ^{Cemetery trustees may be empowered to take over other cemeteries.} veyance of land for cemetery purposes in any township or village, and have acquired land in the township or village for cemetery purposes, and there is in the township or village other land which has been used as a cemetery and no provision has been made for the appointment of trustees for such last-mentioned land, and there is no person upon whom the duty of maintaining and caring for the land rests, and the owner of such land is absent or unknown, the Ontario Municipal Board, upon the application of the trustees and after the giving of such public notice as the Board may deem sufficient, may make an order vesting such last-mentioned land in the trustees, and upon the registration of such order in the proper registry office, the land shall be vested in the trustees, and they shall have and perform the same powers and duties with respect thereto as with respect to other lands conveyed to them for cemetery purposes. R.S.O. 1937, c. 351, s. 45.

50. Where a road allowance which has not been opened ^{Closing road allowance.} for travel passes through lands used for cemetery purposes or separates or lies between lands used for cemetery purposes and other lands vested in the trustees under section 49, or conveyed to them, the Ontario Municipal Board, upon the application of the trustees, and after notice to the council of the municipality and upon being satisfied that it is in the public interest that such road allowance should be closed and that the portion thereof which passes through or adjacent to the cemetery lands should be vested in the trustees, may make an order closing

such road allowance and vesting so much thereof as passes through or adjoins the cemetery lands in the trustees, and upon the registration of such order in the proper registry office, the lands described in the order shall be vested in the trustees for cemetery purposes. R.S.O. 1937, c. 351, c. 46.

Election of trustees when no other provision made.

51.—(1) Where land has been set apart or sold for cemetery purposes and used as a cemetery and no provision has been made for the appointment of trustees of such cemetery, or where there is no person upon whom the duty of taking care of and maintaining a cemetery rests, the owners of plots therein may elect trustees in the manner hereinafter provided.

Meeting.

(2) Three or more of such owners may call a meeting for the purpose of electing trustees by notice (Form 1) to be published once a week for two successive weeks in a newspaper published in the local municipality in which the cemetery is situate, or if no newspaper is published in the local municipality, then in the newspaper published nearest to the local municipality.

Date of meeting.

(3) The date of the meeting shall not be less than two weeks from the date of the last publication of such notice.

Chairman and secretary.

(4) At the time and place named in the notice, the plot owners present shall elect from among themselves some person to act as chairman, and shall also elect some person to act as secretary for the meeting.

Three trustees to be elected.

(5) After the election of the chairman and secretary, the members present shall elect from among the plot owners three persons to be trustees of the cemetery.

Certificate of election.

(6) After the election of the trustees, the chairman and secretary shall certify as to such election (Form 2).

Registration and filing of certificate.

Rev. Stat., c. 336.

(7) The certificate shall be in triplicate, and one of such triplicates with an affidavit of execution thereof in the form prescribed by *The Registry Act* shall be registered in the proper registry or land titles office, and one of such triplicates shall be filed with the clerk of the local municipality in which the cemetery is situate, and one of such triplicates shall be delivered to the trustees.

Effect of registration.

(8) Upon the registration of the certificate, the cemetery shall be vested in the trustees so appointed and their successors subject to any deed or other instrument setting it apart for cemetery purposes or conveying the same or any plot therein for cemetery purposes, and subject to the rights

of any person who may have theretofore purchased plots in such cemetery and to this Act.

(9) The trustees elected and their successors shall be deemed ^{Trustees deemed owners.} to be the owners of the cemetery within the meaning of this Act.

(10) Whenever a vacancy occurs in the office of trustee, ^{Vacancies among trustees.} whether originally elected or elected to fill a vacancy, his successor shall be elected, and his election shall be certified and the certificate shall be registered in the manner hereinbefore provided in the case of a first election of trustees. R.S.O. 1937, c. 351, s. 47.

52.—(1) When adjoining cemeteries are owned by separate ^{Adjoining cemeteries.} boards of trustees or companies, they may appoint trustees to whom and to their successors, appointed in the manner provided by the conveyance, all or any of the land vested in the appointing bodies may be conveyed, and the same may be conveyed accordingly and the trustees appointed by such conveyance and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land thereby or thereafter conveyed to them as a site for a cemetery and for the enlargement of an existing cemetery, and maintain and defend actions for the protection thereof and of their property therein.

(2) Instead of appointing trustees as provided by subsection 1, the cemeteries may be conveyed to and vested in the ^{Cemeteries may be vested in company.} company or in one of the companies upon such trusts, if any, as the appointing bodies may deem proper. R.S.O. 1937, c. 351, s. 48.

53. The powers of an owner of a cemetery shall be deemed ^{Establishment of crematoria.} to extend to and include the provision and maintenance of crematoria and columbaria and the disposal of the bodies of deceased persons by cremation or incineration, and the provision of such fixtures, appliances and facilities as may be deemed necessary in order that such cremation or incineration may be carried on in accordance with accepted scientific principles. R.S.O. 1937, c. 351, s. 49.

54. The owner shall, subject to approval of the Lieutenant-Governor in Council, have power from time to time to frame ^{Regulation of cremation and disposal of ashes.} by-laws, rules and regulations for the reception, cremation or incineration of the bodies of deceased persons, for the deposit of ashes remaining therefrom in a suitable columbarium or for otherwise disposing of the same, and for the fees and rates to be charged. R.S.O. 1937, c. 351, s. 50.

Medical
certificate.

55. No body shall be cremated unless a certificate and permit similar to that now required for burial has been produced nor within 48 hours after death, unless death has been occasioned by a communicable disease subject to quarantine and placard according to *The Public Health Act* and the regulations made thereunder, and so certified by a duly qualified medical practitioner, in which case a duly constituted local board of health may order that the body of the deceased shall be cremated forthwith. R.S.O. 1937, c. 351, s. 51.

Rev. Stat.,
c. 306.

Coroner's
certificate.

56.—(1) No body shall be cremated unless a certificate in the prescribed form, signed by a coroner of the municipality in which the death took place has been deposited with the owner, which certificate shall contain the statement that the cause of death has been definitely ascertained and that there exists no reason for further inquiry or examination. R.S.O. 1937, c. 351, s. 52.

Where death
outside
Ontario.

(2) Where the death took place outside of Ontario the certificate required by subsection 1 may be issued by a coroner of the municipality in which the body is to be cremated. 1949, c. 95, s. 3 (2).

Right to
refuse
cremation.

57. The owner shall have the right to refuse to cremate in any case without assigning reasons. R.S.O. 1937, c. 351, s. 53.

Lieutenant-
Governor in
Council may
make
regulations.

58. The Lieutenant-Governor in Council shall from time to time have the right to make such rules and regulations as may be deemed advisable for the better carrying out of this Act. R.S.O. 1937, c. 351, s. 54.

Approval of
site, etc., by
Department.

59. Sections 2, 3, 4, 5, 6 and 7 shall apply to crematoria or columbaria, in the same manner as they apply to a cemetery. R.S.O. 1937, c. 351, s. 55.

General
penalty.

60. Every person who contravenes any provision of this Act or the regulations for which no other penalty is provided shall incur a penalty of not less than \$5 and not more than \$100 recoverable under *The Summary Convictions Act*. 1938, c. 37, s. 4 (5), *part*.

Rev. Stat.,
c. 379.

Penalty to
be paid to
municipality;

61.—(1) Every penalty recovered under this Act where the prosecution is by or at the instance of the corporation of a municipality, or the local board, or the medical officer of health or other health officers of the municipality shall be paid to the treasurer of the municipality in which the offence was committed for the use of the local board.

(2) Where the prosecution is at the instance of the Department or of any provincial officer or where the offence was committed in territory without municipal organization, the penalty shall be paid to the Treasurer of Ontario. 1938, c. 37, s. 4 (5), *part.*

FORM 1

(Section 51 (2))

Take notice that a meeting will be held at (*naming a place in the local municipality in which the cemetery is situate*) at in the of on the day of 19...., at the hour of o'clock in the noon, for the purpose of electing trustees for the cemetery (*here insert description of land sufficient for the purpose of registration and name or designation, if any, of the cemetery*). The owners of plots are requested to attend the meeting.

Dated at the day of 19....
A.B., C.D., E.F.,

Plot Owners.

R.S.O. 1937, c. 351, Schedule, Form 1.

FORM 2

(Section 51 (6))

We hereby certify that at a meeting of the owners of plots in the cemetery (*here insert description of land sufficient for the purpose of registration and the name or designation, if any, of the cemetery*), of held pursuant to the provisions of *The Cemeteries Act*, at on the day of 19...., the following persons were elected trustees of the cemetery:

A.B., of
C.D., of
E.F., of

(*insert occupation and place of residence of each trustee*).

Witness:

Chairman.
Secretary.

R.S.O. 1937, c. 351, Schedule, Form 2.

CHAPTER 47

The Change of Name Act

1. In this Act,

Interpre-
tation.

- (a) "applicant" means a person applying for a change of name under this Act;
- (b) "application" means an application for a change of name under this Act;
- (c) "change" means any change by way of alteration, substitution, addition or abandonment;
- (d) "child" includes a child adopted under *The Adoption Act*; Rev. Stat.,
c. 7.
- (e) "given name" includes Christian name and baptismal name;
- (f) "name" includes given name and surname;
- (g) "Registrar-General" means Registrar-General under *The Vital Statistics Act*; Rev. Stat.,
c. 412.
- (h) "surname" includes family name and patronymic.
1948, c. 9, s. 1.

2.—(1) Except in the case of a change of surname by a woman upon her marriage to that of her husband, or the adoption of her maiden name by a woman upon dissolution of her marriage, and subject to section 12 of *The Vital Statistics Act*, and section 12 of *The Adoption Act*, no person shall change his name except under this Act. Compliance
with Act.

(2) Nothing herein shall be deemed to affect any change of name effected under any right which existed at law prior to the 26th day of June, 1939. Saving.

(3) Any British subject by birth or by naturalization of the full age of 21 years who effected a change of name in Ontario under any right which existed at law prior to the 26th day of June, 1939, may make an application under this Application
where name
changed
prior to
June 26,
1939.

Act to change his name from the name he bore prior to the change to the name he bears as a result of the change, as though the change had not been effected. 1948, c. 9, s. 2.

Applicant to
be British
subject 21
years of age.

3.—(1) Every applicant shall be a British subject by birth or naturalization of the full age of 21 years.

Application.

(2) Any person except a married woman may make an application. 1948, c. 9, s. 3.

Application
by married
man.

4.—(1) Where a married man applies for a change of his surname, he shall also apply for a change of the surnames of his wife and of all of his or their unmarried infant children.

Idem.

(2) A married man may apply for a change of the given names of his wife and any or all of his or their unmarried infant children. 1948, c. 9, s. 4.

Application
by widower
or widow.

5.—(1) Where a widower or widow applies for a change of surname, he or she shall also apply for a change of the surname of all of his or her unmarried infant children.

Idem.

(2) A widower or widow may apply for a change of the given name or names of any or all of his or her unmarried infant children. 1948, c. 9, s. 5.

Application
by divorced
person on
behalf of
children.

6.—(1) A person whose marriage has been dissolved may make an application for a change of the name or names of any or all of his unmarried infant children of whom he has lawful custody.

Proof
required.

(2) An application under this section shall be accompanied by such proof that the marriage has been dissolved and that the applicant has lawful custody of the children named in the application, as the judge may require.

Consent of
other
parent.

(3) No application under this section shall be granted unless the other parent, if living, of the child or children is served with notice of the application and consents to the change of name.

Application
by divorced
woman who
re-marries.

(4) Notwithstanding subsection 2 of section 3, a woman whose marriage has been dissolved and who re-marries may apply under this section for a change of the surname of her child or children to her surname on re-marriage, but no such application shall be granted unless her husband, if living, consents. 1948, c. 9, s. 6.

Application
by mother
in certain
circum-
stances.

7. Notwithstanding subsection 2 of section 3, an unmarried mother who marries, or a widowed mother who re-marries, may make an application, with the consent of her husband

if living, for a change of the surname of her unmarried infant children, not being her husband's children, so that their surname shall be her surname by marriage. 1948, c. 9, s. 7.

8. Notwithstanding subsection 2 of section 3, a married woman who is deserted by her husband may apply for a change of name, and where she applies for a change of surname she may also apply for a change of the name or names of any or all of her unmarried infant children of whom she has custody, but no such application shall be granted unless her husband is served with notice of the application and consents to the change of name. 1948, c. 9, s. 8.

9.—(1) Where an application includes an application for a change of the name of the wife of the applicant or of any unmarried infant children of the age of 14 years or over, the consent in writing of all of such persons shall be obtained, and all of such persons shall appear upon the hearing of the application, provided that where a wife has, in the opinion of the judge, been living apart from her husband for a period of five years immediately prior to the application, the judge may hear the application in her absence and without her consent, in which case no change of her name shall be effected. 1948, c. 9, s. 9 (1).

(2) Where, on an application, the consent of any person is required under subsection 3 or 4 of section 6, section 7 or section 8, the consent in writing of all of such persons shall be obtained, and all of such persons shall appear upon the hearing of the application. 1948, c. 9, s. 9 (2); 1949, c. 9, s. 1 (1).

(3) Notwithstanding subsection 2, where the judge is satisfied that the other parent in the case of an application under section 6, or the husband in the case of an application under section 8, does not contribute to the support of the applicant or the children on whose behalf the application is made, or cannot be found, or is incapable of giving such consent, or for any other reason is a person whose consent ought to be dispensed with, the judge may dispense with the service of the notice of the application on such person and may hear the application in his absence and without his consent. 1949, c. 9, s. 1 (2).

10.—(1) Every application shall be made to a judge of the county or district court of the county or district in which the applicant has resided for a period of one year immediately prior to the making of such application, and shall be heard at such time and place as the judge may appoint in writing.

Where judge
unable to
hear
application.

(2) Where the judge who has appointed a time and place for the hearing of the application becomes ill or dies or for any other reason is unable to hear the application at the time and place so appointed, the application may be heard by another judge of the same county or district court or by any judge who may for the time being be acting as a judge of such court. 1948, c. 9, s. 10.

Application
where
applicant
has not
resided in
county or
district for
one year.

11.—(1) Notwithstanding subsection 1 of section 10, the applicant may apply to a judge of the county or district court in the county or district in which he resides for authority to make application without having resided in such county or district for a period of one year immediately prior to such application.

Judge may
authorize.

(2) The judge shall inquire into the circumstances and if he is satisfied that the applicant would otherwise suffer hardship, he may make an order authorizing the applicant to make application forthwith and such order shall suffice in the stead of the affidavit required by subsection 2 of section 12 in so far as that affidavit refers to residence.

May require
additional
notice of
application
to be
published.

(3) The judge may in the order require the applicant to publish, in addition to the notice required by subsection 1 of section 13 such additional notice in such counties or districts as he deems necessary, and an affidavit as to publication of such additional notice shall accompany the application for a change of name. 1948, c. 9, s. 11.

Particulars
of
application.

12.—(1) Every application shall set forth,

- (a) the address and date and place of birth of the applicant;
- (b) where the applicant is a married man, the maiden name in full of his wife, and the date and place of marriage;
- (c) the name in full of his father, and where the applicant is a married man, the name in full of his wife's father;
- (d) the maiden name in full of his mother, and where the applicant is a married man, the maiden name in full of his wife's mother;
- (e) that he is a British subject by birth or naturalization, as the case may be;

- (f) his occupation, profession or calling;
- (g) whether he has been convicted of a criminal offence and the particulars of any such offence;
- (h) a statement containing full particulars of any judgment or action pending against him, or any chattel mortgage, lien or other registered encumbrance against his personal property, or if none, a statement to that effect;
- (i) the name proposed to be adopted;
- (j) a statement containing full particulars of any change of name effected previously, or if none, a statement to that effect;
- (k) the names, ages and other similar particulars with respect to all other persons whose names may be changed as a result of the application;
- (l) a statement of the reasons for desiring the change of name.

(2) Every application shall be accompanied by an affidavit of the applicant deposing, Application to be accompanied by affidavit.

- (a) that he has resided in the county or district in which the application is made for a period of not less than one year immediately prior to the making of the application;
- (b) that the statements contained in the application are true; and
- (c) that the application is made by the applicant in good faith and for no improper purpose.

(3) Every application shall be accompanied by, Certificate as to executions and bankruptcy.

- (a) a certificate of the sheriff of the county or district in which the application is made, and of every other county or district the judge may direct, as to the existence of any unsatisfied executions in his hands against the property of each person of the full age of 21 years whose name may be changed as a result of the application; and
- (b) a certificate of the Registrar in Bankruptcy as to the appearance in the index book kept pursuant to sub-

R.S.C. 1927,
c. 11.

section 3 of section 28 of the *Bankruptcy Act* (Canada) of the name of each person of the full age of 21 years whose name may be changed as a result of the application. 1948, c. 9, s. 12.

Notice of
application.

13.—(1) Every applicant shall publish once in *The Ontario Gazette* and once a week for three consecutive weeks in a newspaper having general circulation in the locality in which he resides, a notice of the application stating the name and address and proposed name of every person whose name may be changed as a result of the application, and the time and place of the hearing of the application.

Time of
application.

(2) No application shall be heard until the expiration of 14 days after the date of the last publication of the notice. 1948, c. 9, s. 13.

Documents
to be filed.

14. Every applicant shall file with the clerk of the court in which the application is made,

- (a) the application with the affidavit referred to in subsection 2 of section 12 in duplicate;
- (b) all certificates required under subsection 3 of section 12;
- (c) an affidavit as to publication of the notice of application;
- (d) the appointment for the hearing; and
- (e) if the applicant is a British subject by naturalization, a notarial copy of his naturalization certificate. 1948, c. 9, s. 14.

Hearing.

15.—(1) At the hearing the judge may require the applicant, any person whose name may be changed as a result of the application or any other person appearing on the hearing, to give evidence under oath and may examine or cross-examine any such person or permit any such person to be examined or cross-examined.

Objections.

(2) Any person who objects to a change of name and any person who desires to furnish the court with any information regarding the application or any circumstances connected therewith may appear upon the hearing of the application and shall be heard. 1948, c. 9, s. 15.

Refusal of
application.

16.—(1) Where the judge is of opinion that the name which the applicant seeks to adopt is the same as the name of any other person or resembles the name of any other person to

such an extent that the change applied for might reasonably cause mistake or confusion or be a cause of embarrassment or inconvenience to such person, or that the change of name is sought for any improper purpose or is on any other ground objectionable or that the application should be refused for any other reason, he shall refuse the application.

(2) Where the judge, upon consideration of the application, the material filed and any other evidence adduced, is of opinion that the application should be granted, he may make an order effecting the change of name. Granting of application.

(3) An order made under this section may provide for such changes of names as the court may deem proper having regard to the nature of the application, the relationship and status of other persons mentioned in the application and all other relevant circumstances and every such order shall have effect according to the tenor thereof. 1948, c. 9, s. 16. Scope of order.

17. The clerk of the court shall enter the order and transmit a certified copy of the order, together with a duplicate original of the application and of the verifying affidavit, to the Registrar-General. 1948, c. 9, s. 17. Certified copy to Registrar-General.

18.—(1) The clerk of the court shall send to the appropriate sheriff or court clerk full particulars of the order made and of any judgment, pending action, chattel mortgage, lien or other registered encumbrance shown upon the application. Notice of judgement, etc., sent to sheriff or clerk.

(2) Such sheriff or court clerk shall enter and re-index such judgment, pending action, chattel mortgage, lien or other registered encumbrance under the name as changed. 1948, c. 9, s. 18. Idem.

19. Any person may, upon payment of the prescribed fee, obtain from the clerk of the court in which the order was made a certificate of any order effecting a change of name, and such certificate shall for all purposes be conclusive evidence of its contents. 1948, c. 9, s. 19. Certificates issued to applicants.

20. Subject to *The Vital Statistics Act*, without restricting the effect which a change of name may have at law, any person whose name has been changed under this Act shall, upon production of a certificate obtained under section 19 and upon satisfactory proof of identity, be entitled to have a memorandum of the change of name endorsed on any record, certificate, instrument, document, contract or writing, whether public or private, upon payment of such fee as may be prescribed therefor by or under any statute. 1948, c. 9, s. 20. Substitution of new name in documents. Rev. Stat., c. 412.

Application
for annul-
ment.

21.—(1) Any person who has reason to believe that any order effecting a change of name has been obtained by fraud or misrepresentation or for an improper purpose may apply to a judge of the county or district court in which such order was made for an annulment of the order.

Affidavit
giving
reasons.

(2) Every application for an annulment shall be accompanied by an affidavit of the person making the application in which his reasons for believing that the order was obtained by fraud or misrepresentation or for any improper purpose shall be set forth.

Hearing of
application.

(3) The judge may refuse such application without hearing further representations or evidence or may direct that the person applying for the annulment and any other persons shall be heard at such time and place as the court may determine and that notice of the hearing shall be given to such persons and in such manner as the court may direct.

Annulment
of order.

(4) If the judge is satisfied that the order was obtained by fraud or misrepresentation or for an improper purpose, he may order the annulment of the order in whole or in part.

Clerk to
note
annulment.

(5) The clerk of the court shall endorse a memorandum of such annulling order upon the entry of the order annulled in whole or in part and shall send a certified copy of the annulling order to the Registrar-General, and where appropriate by reason of section 18 to the proper sheriff or clerk of the court who shall amend his records in accordance with the order.

Where
change
of name
annulled.

(6) Where a change of name has been annulled, the Registrar-General may by order require any person to whom a certificate has been issued under section 19 to forthwith deliver up the certificate and any person who refuses or neglects to comply with such order shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 and in default of payment to imprisonment for a term of not more than three months. 1948, c. 9, ss. 21, 22 (2).

Fraud or
misrepre-
sentation.

22.—(1) Any person who by fraud or misrepresentation obtains a change of name under this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500 or to imprisonment for a term of not more than six months. 1948, c. 9, s. 22.

Regulations

23. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing forms of applications, affidavits and certificates;
 - (b) prescribing the fees payable upon any application and upon any certificate, search or other matter required or permitted to be given or done under this Act and to whom such fees shall be payable;
 - (c) providing for the return of any fee upon an application or part of such fee where the application is refused;
 - (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1948, c. 9, s. 23.
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CHAPTER 48

The Charitable Gifts Act

1.—(1) Wherever any interest in any business that is carried on for gain or profit is given to or vested in any person in any capacity for any religious, charitable, educational or public purpose, such person shall dispose of such portion thereof that represents more than a 10 per cent interest in such business. ^{Where interest to be disposed of.}

(2) Subsection 1 shall not apply to any interest in any business given to or vested in any organization of any religious denomination. ^{Exception.}

(3) Where the interest so given or vested is subject to any life interest, life annuity or income for life, so much of the interest so given or vested as is necessary to provide such life interest, life annuity or income for life shall be deemed to be so given or vested when such life interest, life annuity or income for life ceases to exist. 1949, c. 10, s. 1. ^{Life interests, etc.}

2.—(1) Where the interest was so given or vested before the 8th day of April, 1949, section 1 shall be complied with within seven years after that day or within such extended period as may be determined by the Supreme Court. ^{Gifts before commencement of Act.}

(2) Where the interest is so given or vested on or after the 8th day of April, 1949, section 1 shall be complied with within seven years after such interest is so given or vested or within such extended period as may be determined by the Supreme Court. 1949, c. 10, s. 2. ^{Gifts after commencement of Act.}

3.—(1) Where and so long as the interest so given or vested represents more than a 50 per cent interest in such business the person to whom it is given or in whom it is vested and the Public Trustee shall on or before the 30th day of June in each year determine jointly the amount of the profits earned by such business in its fiscal year ending during the calendar year next preceding. ^{Determination of profits.}

(2) The interest of such person in the then undistributed profits shall be paid over by such business to such person in ^{Distribution of profits.}

the amounts and on the dates determined jointly by such person and the Public Trustee.

Determina-
tion by
Supreme
Court.

(3) If such person and the Public Trustee fail to determine jointly any matter mentioned in subsection 1 or 2 the matter shall be determined by the Supreme Court.

Annual
return.

(4) For the purposes of this section such person shall on or before the 31st day of March in each such year deliver to the Public Trustee a return with respect to its fiscal year ending during the calendar year next preceding showing,

- (a) the assets and liabilities of such business;
- (b) all accounts of profit and loss of such business;
- (c) the particulars of any fee paid to any director; and
- (d) where the amount of salary and other remuneration paid to any person is \$8,000 or more, the particulars thereof,

and such return shall be verified by the certificate of an officer of such business that the statements therein are true.

Examina-
tion of
books, etc.

(5) For the purposes of this section the Public Trustee may require such further or other information and may make such examination of the accounts and records of such business as he deems necessary. 1949, c. 10, s. 3.

Rights of
acquisition.

4. Where any interest in any business is being disposed of pursuant to section 1, any person acquiring any portion of such interest for other than religious, charitable, educational or public purposes may, subject to the approval of the Supreme Court as to the consideration for and the terms and conditions of the acquisition, so acquire such portion notwithstanding that he is the person disposing of such interest or is an officer, director, agent or employee of such person. 1949, c. 10, s. 4.

Investment
of proceeds.
Rev. Stat.,
c. 59.

5. The proceeds of any such disposition may be invested only in investments authorized by *The Companies Act* for the investment of the funds of joint stock insurance companies, but no such investment shall be made that results in such person holding more than a 10 per cent interest in any one corporation. 1949, c. 10, s. 5.

Investiga-
tion.

6.—(1) The Treasurer of Ontario may appoint any person to make such investigation as he deems expedient respecting any interest in any business that has been given to or vested

in any person for any religious, charitable, educational or public purpose or respecting any person to or in whom any such interest has been given or vested.

(2) Every person so appointed shall have the same powers as may be given to a commissioner under *The Public Inquiries Act*. 1949, c. 10, s. 6. Powers of investigator.
Rev. Stat.,
c. 308.

7. Where any person contravenes any provision of this Act the Supreme Court shall make such orders as are necessary to carry out the provisions of this Act. 1949, c. 10, s. 7. Powers of Court.

8. Every person who contravenes any provision of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$5,000 or to imprisonment for any term of not more than one year, or to both fine and imprisonment. 1949, c. 10, s. 8. Offences and penalties.

9. Nothing in this Act shall affect the operation of *The Charities Accounting Act*. 1949, c. 10, s. 9. Rev. Stat.,
c. 50, not
affected.

CHAPTER 49

The Charitable Institutions Act

1. In this Act,

Interpre-
tation.

- (a) "charitable institution" means refuge, orphanage, infants' home or any other institution or organization which is declared to be a charitable institution by the Minister pursuant to *The Department of Public Welfare Act*;
- (b) "Minister" means Minister of Public Welfare;
- (c) "provincial aid" means aid granted to a charitable institution out of moneys appropriated for the purpose by the Legislature;
- (d) "regulations" means regulations made under this Act. R.S.O. 1937, c. 381, s. 1; 1946, c. 7, s. 1; 1947, c. 11, s. 1.

Rev. Stat.,
c. 98.

2. Nothing in this Act shall relate to or affect a hospital, private hospital or sanatorium under *The Public Hospitals Act*, *The Private Hospitals Act*, or *The Sanatoria for Consumptives Act*, or a home for the aged under *The Homes for the Aged Act*. R.S.O. 1937, c. 381, s. 2.

Act not
to apply
to certain
institutions.Rev. Stat.,
cc. 307, 289,
346, 168.

3.—(1) The several refuges, orphanages and infants' homes which under *The Hospitals and Charitable Institutions Act*, being chapter 359 of the Revised Statutes of Ontario, 1927, received aid for the year 1930 from the Province shall for the purposes of this Act and the regulations be deemed to be charitable institutions approved under this Act. R.S.O. 1937, c. 381, s. 3 (1).

Institutions
aided for
1930
approved.

(2) No institution, organization, premises or building shall be created, established, incorporated, acquired, erected, continued, maintained or operated as or for the purposes of a charitable institution until the charitable institution is approved by the Lieutenant-Governor in Council as a charitable institution. 1946, c. 7, s. 2 (1).

Approval of
new
institutions.

(3) Any approval given or deemed to have been given under this Act in respect to any charitable institution may be suspended by the Minister or revoked by the Lieutenant-Governor in Council. R.S.O. 1937, c. 381, s. 3 (4).

Suspension
or revoca-
tion of
approval.

Regulations.

4. The Lieutenant-Governor in Council upon the recommendation of the Minister may make such regulations in respect to charitable institutions as may be deemed necessary for,

- (a) their creation, establishment, incorporation, operation, functions, objects and pursuits;
 - (b) their inspection, control, government, management, conduct and administration;
 - (c) the construction, alteration, equipment, maintenance and repair of any buildings or premises owned, operated or used by charitable institutions;
 - (d) their classification, grades and standards;
 - (e) their officers, staffs, servants, employees and agents and the powers and duties thereof;
 - (f) the admission, treatment, conduct, discipline and discharge of inmates of charitable institutions;
 - (g) the classification and lengths of stay of and rates and charges for inmates of charitable institutions;
 - (h) the funds, revenues and expenditures of charitable institutions and the obtaining, procuring and application of such funds and revenues;
 - (i) the records, books, accounting systems, audits, reports and returns to be made and kept by charitable institutions;
 - (j) the distribution, payment, withholding and restoration of and other matters affecting provincial aid;
 - (k) all other matters affecting charitable institutions.
- R.S.O. 1937, c. 381, s. 4.

Powers of
Minister.

5. It shall be the duty of the Minister and he shall have power to administer and enforce this Act and the regulations, and the Minister may, from time to time, declare any or all of the regulations to be in force with respect to all charitable institutions or any specified charitable institution or institutions or class or classes thereof and for such time or times as the Minister may deem expedient. R.S.O. 1937, c. 381, s. 5; 1946, c. 7, s. 3.

6. Every charitable institution which is approved by the Lieutenant-Governor in Council shall have power to carry on its undertaking, objects and pursuits as may be authorized by law or by general or special Act under which it was created, established, incorporated or is empowered so to do, but where any such law of Ontario or any such general or special Act conflicts with this Act or the regulations, this Act and the regulations shall prevail. R.S.O. 1937, c. 381, s. 7; 1946, c. 7, s. 4.

Powers of
Institution.

7. No by-law, rule or regulation of any charitable institution shall have force or effect until the same is approved by the Lieutenant-Governor in Council. R.S.O. 1937, c. 381, s. 8; 1947, c. 11, s. 3.

Approval of
by-laws, etc.

8.—(1) Subject to this Act and the regulations, provincial aid shall be distributed and may be paid out of any moneys appropriated for such purpose by the Legislature, to any charitable institution which is approved by the Lieutenant-Governor in Council and belongs to one of the following classes of charitable institutions, as follows:

Distribution
of provincial
aid.

(a) For every indigent person an inmate of a refuge, ten cents per day for each day's actual maintenance of such inmate during the preceding calendar year.

Refuges.

(b) For every infant or child an inmate of an orphanage or infants' home, if such infant or child is an orphan or neglected or abandoned or the infant or child of an indigent person, five cents per day for each day's actual maintenance of such inmate during the preceding calendar year, and if any such inmate is an infant under one year of age and is being nursed by its mother in such institution, ten cents per day for each day's actual maintenance of such inmate.

Orphanages,
etc.

(c) For every adult, friendless and indigent female person an inmate of any such refuge, orphanage or infants' home, ten cents per day for each day's actual maintenance of such inmate during the preceding calendar year.

Female
refuges.

(2) In calculating the amount of provincial aid the day of departure of an inmate of a charitable institution shall not be counted. R.S.O. 1937, c. 381, s. 9; 1946, c. 7, s. 5.

Computing
provincial
aid.

9. No provincial aid shall be granted to a charitable institution for any year in which the revenues thereof are equal to or exceed the expenditures for operation and main-

No aid
for self-
sustaining
institutions.

tenance of the institution, unless the Lieutenant-Governor in Council otherwise directs. R.S.O. 1937, c. 381, s. 10.

Withdrawal
of aid.

10. No provincial aid shall be granted to any charitable institution the approval of which has been revoked or suspended or to any such institution which does not comply with this Act and the regulations. R.S.O. 1937, c. 381, s. 11.

Restoration
of aid.

11. When from any cause provincial aid to any charitable institution has not been granted or the grant thereof has been withheld or withdrawn, the Lieutenant-Governor in Council may upon the recommendation of the Minister direct that such aid be granted or restored in whole or in part, but not until the approval of such charitable institution has been received or until compliance with this Act and the regulations is made, as the case may be. R.S.O. 1937, c. 381, s. 12.

Penalty.

12. Every person who contravenes or is a party to the contravention, directly or indirectly, of any provision of this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$500. R.S.O. 1937, c. 381, s. 13.

CHAPTER 50

The Charities Accounting Act

1.—(1) Where under the terms of a will or of any instrument in writing real or personal property or any right or interest therein, or the proceeds thereof, have heretofore been or are hereafter given to or vested in any person as executor or trustee for any religious, educational, charitable or public purpose, or are to be applied by him to or for any such purpose, such person shall give written notice thereof, personally or by registered post, to the Public Trustee and to the person, if any, designated in the will or instrument as the beneficiary under the bequest or gift, or as the person to receive the same from the executor or trustee.

Notice of
bequest or
donation to
be given to
Public
Trustee.

(2) The notice shall be given in the case of an instrument other than a will within one month after it has been executed and in the case of a will within the same period after the death of the testator.

Time for
giving
notice.

(3) No notice under this section shall be necessary where the trust has been completely executed before the 31st day of March, 1914, but the remaining sections of this Act shall nevertheless apply to every such trust. R.S.O. 1937, c. 167, s. 1.

When notice
not
necessary.

2. The notice shall state the nature of the property coming into the possession or under the control of the executor or trustee and the notice to the Public Trustee shall be accompanied by an attested or notarial copy of the will or other instrument. R.S.O. 1937, c. 167, s. 2.

Contents of
notice.

3. Every such executor or trustee shall furnish to the Public Trustee from time to time such information as to the condition or disposition of the property devised, bequeathed or given, and such other particulars, and in such form as may be required by the regulations made under this Act. R.S.O. 1937, c. 167, s. 3.

Executor or
trustee to
furnish
information
to Public
Trustee.

4. Whenever required so to do by the Public Trustee, the executor or trustee shall submit the accounts of his dealings with all the property coming to his hands or under his control under the terms of the disposition, bequest or gift, to be

Auditing
accounts as
to charitable
legacies or
grants.

passed and examined and audited by the judge of the surrogate court of the county or district in which he resides or in which probate was granted. R.S.O. 1937, c. 167, s. 4.

Application
to Supreme
Court where
executor
or trustee
in default.

5. If any such executor or trustee,

- (a) refuses or neglects to comply with any of the provisions of sections 1 to 4, or with any of the regulations made under this Act;
- (b) is found to have misapplied or misappropriated any property or fund coming to his hands for the purposes mentioned in section 1;
- (c) has made any improper or unauthorized investment of any moneys forming part of the proceeds of any such property or fund; or
- (d) is not applying any property, fund or moneys in the manner directed by the will or instrument,

a judge of the Supreme Court sitting in chambers upon the application of the Public Trustee made by way of originating notice according to the practice of the court, may make an order,

- (e) directing the executor or trustee to do forthwith or within the time stated in the order anything which he has refused or neglected to do in compliance with sections 1 to 4, or with the regulations made under this Act;
- (f) requiring the executor or trustee to pay into court any funds in his hands and to assign and transfer to the Accountant of the Supreme Court or to a new trustee appointed under clause g, any property or securities in his hands or under his control for any of the purposes mentioned in section 1;
- (g) removing such executor or trustee and appointing some other person to act in his stead;
- (h) directing the issue of an attachment against the executor or trustee to the amount of any property or funds as to which he is in default;
- (i) fixing the costs of the application and directing how and by whom they shall be payable;
- (j) giving such directions as to the future investment, disposition and application of any such property, funds or moneys as he may deem just and best calculated to carry out the intentions of the testator or donor;

- (k) imposing a penalty by way of fine or imprisonment not exceeding 12 months upon the executor or trustee for any such default or misconduct or for disobedience to any order made under this section;
- (l) appointing an executor or trustee in place of any executor or trustee who has died, or has ceased to act, or has been removed, or has gone out of Ontario, notwithstanding that the will or other instrument creating the trust confers the power to make such an appointment upon another executor or trustee or upon any other person. R.S.O. 1937, c. 167, s. 5.

6.—(1) The Lieutenant-Governor in Council may make Regulations, regulations,

- (a) prescribing forms of notices and returns to be made under this Act;
- (b) respecting the practice and procedure upon passing the accounts of an executor or trustee under this Act and the tariff of fees and costs to be applicable thereto;
- (c) requiring returns to be made by any such executor or trustee to any department of the Government and the form of such returns;
- (d) regulating the practice and procedure upon applications under section 5;
- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 167, s. 6 (1); 1950, c. 79, s. 2.

(2) Except as otherwise provided by the regulations, the practice and procedure of the Supreme Court and of the surrogate courts shall respectively apply to proceedings under this Act. Practice.

(3) Where an application is made for letters probate of any will or other testamentary instrument whereby real or personal property or any right or interest therein or proceeds therefrom are given to or vested in any person as executor or administrator for any religious, educational, charitable or other purpose or are to be applied by him to or for any such purpose, the surrogate registrar shall transmit a copy of such will or other instrument to the Public Trustee. When surrogate registrar to transmit copy of will to Public Trustee.

(4) Where an action or other proceeding is brought to set aside, vary or construe any such will or other instrument, written notice thereof shall be served upon the Public Trustee, and if no one appears as representing the religious, educa- Notice of action to set aside will to be served on Public Trustee.

tional, charitable or other public institution, or if there is no named beneficiary, or a discretion is given to the executor or trustee as to a choice of beneficiaries, the Public Trustee may intervene in such proceedings and shall have the right to object or consent and to be heard upon any argument as a party to such action or proceeding. R.S.O. 1937, c. 167, s. 6 (3-5).

Application
of Act.

7. This Act shall apply notwithstanding any provision in any will or other instrument excluding such application, or giving to an executor or trustee any discretion as to the application of property, funds or the proceeds thereof to religious, educational, charitable or public purposes. R.S.O. 1937, c. 167, s. 7.

Other rights
and remedies
not affected.

8. This Act shall not apply to or affect or in any way interfere with any right or remedy which any person may have under any other Act or in equity or at common law or otherwise. R.S.O. 1937, c. 167, s. 8.

CHAPTER 51

The Children of Unmarried Parents Act

1. In this Act,

Interpre-
tation.

(a) "judge" means judge or junior or acting judge of a county or district court or magistrate or judge of the juvenile court where such magistrate or judge of the juvenile court has been designated by the Lieutenant-Governor in Council a judge within the meaning of this Act;

(b) "provincial officer" means a person designated as such under this Act;

(c) "regulations" means regulations made under this Act. R.S.O. 1937, c. 217, s. 1.

2.—(1) The Lieutenant-Governor in Council may appoint such officers, clerks and servants and may employ such other assistants as he may deem necessary for the administration and enforcement of this Act, and may designate any of such officers a provincial officer for the purposes of this Act.

Appointment
of officers,
clerks, etc.

(2) Any officer appointed under this section may take and receive such affidavit or statutory declaration as any person desires to make in or concerning any matter arising out of the administration of this Act: R.S.O. 1937, c. 217, s. 2.

Officers
may take
affidavits,
etc.

3. The division registrar and the Deputy Registrar-General shall notify the provincial officer of the birth of every child born out of wedlock registered under *The Vital Statistics Act* and every birth registered under the said Act in such a manner as to suggest that the parents are unmarried or unknown, with such particulars as may be directed by the regulations. R.S.O. 1937, c. 217, s. 3.

Provincial
officer to be
notified of
registration
of all births
out of
wedlock.Rev. Stat.,
c. 412.

4. It shall be the duty of the provincial officer, by inquiry through children's aid societies and the returns furnished by the division registrar or Deputy Registrar-General, to obtain all information possible with respect to every child born out of wedlock, and the provincial officer shall take such

Provincial
officer to
make in-
vestigations.

proceedings and do all such things as are permitted or required under this Act as may seem to him advisable in the interest of such child. R.S.O. 1937, c. 217, s. 4.

Restrictions
as to inter-
ference by
provincial
officer.

5. Nothing in this Act shall require the provincial officer to interfere with the care and maintenance of any child born out of wedlock,

Rev. Stat.,
c. 7.

(a) where the child has been adopted according to *The Adoption Act*; or

(b) where the child is being cared for voluntarily by a person whom the provincial officer deems suitable to have charge of the child. R.S.O. 1937, c. 217, s. 5.

Unmarried
mother may
apply to
provincial
officer for
advice.

6. The mother of a child born out of wedlock or of a child who is likely to be born out of wedlock may apply to the provincial officer for advice and protection in any matter connected with the child or with the birth of the child, and the provincial officer shall take such action as may seem to him advisable in the interest of the mother and child. R.S.O. 1937, c. 217, s. 6.

Regulations.

7. The Lieutenant-Governor in Council may make regulations,

(a) respecting the procedure to be followed upon an application for an order of affiliation;

(b) for fixing the fees, costs, charges and expenses payable on proceedings under this Act and for dispensing with the payment of such fees, costs, charges and expenses where owing to lack of means or any other reason the judge deems such action advisable;

(c) for the payment of the expenses of the provincial officer in carrying out this Act out of such sums as may be appropriated by the Legislature for that purpose;

(d) for designating a provincial officer, and for the appointment of local and other assistants to the provincial officer, and for authorizing any such assistants to act for and in the place of the provincial officer;

(e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 217, s. 8.

8. An application to the judge for an affiliation order may be made, Affiliation orders.

- (a) by the mother of a child born out of wedlock; or
- (b) by an unmarried woman pregnant with a child; or
- (c) by the next friend or guardian of a child born out of wedlock; or
- (d) by any person who has supplied medical attendance or nursing or hospital accommodation to an unmarried woman during pregnancy or confinement; or
- (e) by a person who has the custody of a child born out of wedlock or who has undertaken the care and education of such child or who has supplied such child with necessities; or
- (f) by any person who has incurred the funeral expenses of an unmarried mother who has died in childbirth or in consequence of her pregnancy, or of a child born out of wedlock; or
- (g) by the provincial officer. R.S.O. 1937, c. 217, s. 9.

9. An affiliation order shall not be made under this Act unless the application therefor is made within the lifetime of the father, and Limit of time for application.

- (a) within one year after the birth of the child; or
- (b) within one year after the doing of any act on the part of the putative father which affords evidence of acknowledgment of paternity; or
- (c) within one year after the return to Ontario of the putative father, where absent from Ontario at the expiration of the period of one year from the birth of the child; or
- (d) the putative father at any time has failed in whole or in part to carry out the terms of any agreement authorized by this Act. R.S.O. 1937, c. 217, s. 10.

10. The judge shall, upon application, appoint in writing a time and place at which he will inquire and determine whether the person said to be the father of the child is in fact the father of the child. Appointment for hearing. R.S.O. 1937, c. 217, s. 11.

Service of
appointment.

11.—(1) Notice in writing of the time and place appointed shall be served personally or in such other manner as the judge may direct upon the person said to be the father of the child at least three days before the day so appointed.

Arrest of
alleged
father who
may be
required to
give security
or be
imprisoned.

(2) Where the judge is satisfied that there is good and probable cause for believing that the person said to be the father of the child is the father of the child and that the person, unless he be arrested is about to quit the territorial jurisdiction of the judge with the intention of avoiding service of the notice in writing referred to in subsection 1 or of evading his obligations in respect to the child and its mother, whether before or after an affiliation order has been made, the judge may issue a warrant for the arrest of such person and upon his arrest may require him to give security for such sum and in such manner and upon such condition as the judge shall direct and if the security is not given the judge may order the person to be imprisoned for any period not exceeding three months unless the security is sooner given, or the person has sooner complied with the condition so imposed. R.S.O. 1937, c. 217, s. 12.

Proceedings
in default of
appearance.

12. If at the time and place appointed the person so served fails to appear or show sufficient reason for not attending, the judge, in the absence of the person and upon sufficient evidence being adduced before him, may make such affiliation order or other order as he may deem just. R.S.O. 1937, c. 217, s. 13.

Affiliation
orders.

13.—(1) Where the person so served appears in pursuance of the notice, the judge may hear and determine the matter in a summary manner and upon sufficient evidence being adduced before him may make an order declaring the person named therein to be the father of the child and requiring the father to pay,

(a) the reasonable expenses for the maintenance and care, medical or otherwise, of the mother of such child during the three months next preceding the birth of the child, at the birth, and during such period after the birth as may in the opinion of the judge have been or be necessary in connection with, or as a consequence of the birth of such child, taking into consideration the circumstances of the case;

(b) a sum of money weekly towards the maintenance of the child until the child attains the age of 16 years, or a lump sum in lieu of such weekly payments

which shall form a principal consuming annuity, the income from which shall be equivalent to the order for weekly maintenance by the court, the balance of which, in the event of the death of the child before the age of 16 years, shall revert to the Province unless otherwise ordered by the court;

(c) the expenses of the burial of the mother in case of her death at or in consequence of her pregnancy, or of the birth of the child;

(d) the expenses of the burial of the child if he dies before the making of the affiliation order or at any time thereafter before attaining the age of 16 years.

(2) In estimating the sums payable by the father under this section, the judge shall take into consideration the ability to provide, and the prospective means of the father. Means of father to be considered.
R.S.O. 1937, c. 217, s. 14.

14. The judge may in his discretion upon the same or a like application order that the mother of a child born out of wedlock shall contribute a weekly sum of money towards the maintenance of the child until the child reaches the age of 16 years. Liability of mother for maintenance of child.
R.S.O. 1937, c. 217, s. 15.

15. The judge shall fix such sums for maintenance as will enable the child to maintain a reasonable standard of life, and the judge shall be governed in his findings by the consideration of what the child would have enjoyed had he been born to his parents in lawful wedlock. Amount of maintenance, how fixed.
R.S.O. 1937, c. 217, s. 16.

16.—(1) A judge may, upon the discovery of new evidence or fraud being shown by affidavit, grant leave to reopen and may reopen and reconsider any application for an affiliation order. Reopening of application.

(2) A judge may at any time where an order for payment has been made, rescind or vary the order as he sees fit and any order so varied may be enforced in like manner as the original order. Order may be rescinded or varied.
R.S.O. 1937, c. 217, s. 17.

17.—(1) A judge may require security to be given for such sum and in such manner as he shall direct for the performance of any order made under this Act, and where any person fails to give the security required of him, a judge may order the person to be imprisoned for any period not exceeding three months unless the security is sooner given. Security or imprisonment for failure to give security.

Forfeiture
of security.

(2) When any person has failed to perform a condition or comply with an order in respect of which security has been given under section 11 or this section, a judge may order that the security be forfeited, which order of forfeiture may be enforced under section 18, and the provincial officer shall apply the proceeds of such forfeited security in making any payments ordered to be made by the father, or in such other manner as a judge may direct. R.S.O. 1937, c. 217, s. 18.

Enforcement
of orders.

18.—(1) Any order made under this Act may be enforced in the same manner and by the like proceedings as,

Rev. Stat.,
c. 379.

(a) an order made or fine imposed under *The Summary Convictions Act*, save that imprisonment for default in making payment under the order shall only be ordered as hereinafter provided; or

(b) a judgment of the division court, where the order has been filed with the clerk of a division court, whereupon proceedings by way of execution or judgment summons, *inter alia*, may be used to enforce the order.

Default in
payment.

(2) It shall be the duty of the provincial officer to see that payments directed to be made are duly made, and upon default in any payment, the provincial officer may apply to any judge, who,

(a) may from time to time summon the person in default to explain the default; and

(b) may, where service of the summons has been proved and the person summoned does not appear or sufficient reason for his absence is not given, or where it appears that the summons cannot be served, or where an order of imprisonment has been made, issue a warrant for the arrest of the person; and

(c) may, when a warrant has been issued or where the person in default fails to satisfy the judge that the default is due to inability to pay, order the person to be imprisoned for any period not exceeding three months unless the sums of money payable under the order or such lesser sums as the judge may see fit to designate are sooner paid.

Idem.

(3) Upon such default and where the order has been filed in the division court, the provincial officer may proceed as in the case of a judgment of that court. R.S.O. 1937, c. 217, s. 19.

19. No order of affiliation shall be made upon the evidence of the mother of the child unless her evidence is corroborated by some other material evidence. R.S.O. 1937, c. 217, s. 20.

20. All proceedings under this Act may be heard by the judge in his chambers and not in open court. R.S.O. 1937, c. 217, s. 21. Proceedings may be heard in chambers.

21. Notice shall be given to the provincial officer in all proceedings instituted under this Act, and he shall have the right to appear and intervene and be heard in person or by counsel on any such proceedings. R.S.O. 1937, c. 217, s. 22. Notice to be given to provincial officer.

22. The provincial officer shall not be debarred from instituting or continuing proceedings under this Act by the death of the mother. R.S.O. 1937, c. 217, s. 23. Death of mother not a bar to proceedings.

23.—(1) Where an agreement with the provincial officer has been entered into by the putative father or where an affiliation order has been made against the father of a child born or likely to be born out of wedlock, such agreement or order shall bind the estate of the putative father or father after his death and any sums payable thereunder shall be a debt due from and chargeable upon the estate of the putative father or father and recoverable at the suit of the provincial officer, but every agreement or affiliation order shall, as to any payment falling due before or after the putative father's or father's death, be subject to review as provided in section 16 and no action or other proceeding shall be taken thereon after the death of the putative father or father without the leave of the judge, and the judge before granting leave shall direct that notice shall be given to the widow and legitimate children of the putative father or father and to all other persons interested in the estate. Agreement and affiliation order shall bind estate of father.

(2) Where it appears to the judge that the terms of the agreement with the provincial officer or affiliation order cannot be carried out without depriving the widow or legitimate children of the putative father or father of necessary maintenance, he shall vary the agreement with the provincial officer or affiliation order to such an extent and in such manner that the widow of the putative father or father and his children born in wedlock, if any, shall be duly provided for before the child or children born out of wedlock. R.S.O. 1937, c. 217, s. 24. Widow and children born in wedlock not to be prejudiced.

24.—(1) Any agreement between the mother and the putative father of a child born or likely to be born out of wedlock and any agreement entered into between the father Approval of agreement for maintenance.

and any other person relating to any matters coming within this Act with regard to the maintenance and support of the mother or child, shall require the approval in writing of a judge, and a copy of every such agreement shall be recorded with the provincial officer.

Where agree-
ment void-
able.

(2) Any agreement coming within subsection 1 entered into without the approval of a judge, shall be voidable at the instance of the provincial officer. R.S.O. 1937, c. 217, s. 25.

Agreement
with pro-
vincial officer
to pay
expenses.

25.—(1) The provincial officer may enter into an agreement with any person, whereby such person agrees to pay such of the expenses and maintenance set forth in section 13 as in the opinion of the provincial officer have been or may be necessary.

Default
under
agreement.

(2) Upon default in payment under any such agreement the provincial officer may apply to a judge for an affiliation order, and such agreement when made by the person said to be the father of the child shall be *prima facie* proof of paternity and of the ability and prospective means of the father to make the payments provided by such agreement. R.S.O. 1937, c. 217, s. 26.

Evidence.

26.—(1) The judge shall have the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as may be requisite and shall have the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases.

Witness
fees.

(2) The fees payable to witnesses shall be upon the scale of fees allowed to witnesses in an action in the county court. 1944. c. 9, s. 1.

Costs.

27. A judge shall have power to direct payment of the costs of any proceedings taken before him under this Act. R.S.O. 1937, c. 217, s. 27.

Appeal.

28. An appeal shall lie from any order under this Act to the Court of Appeal by leave of a judge of the Supreme Court. R.S.O. 1937, c. 217, s. 28.

Payment
over of funds
to Public
Trustee.

29.—(1) All sums of money whether for expenses, maintenance or costs payable under an order made or an agreement entered into under this Act shall be paid in the first instance to the provincial officer, and where payment of a lump sum is ordered or agreed upon the provincial officer shall pay over to the Public Trustee any portion thereof not

immediately required for the maintenance of the child or to meet other charges under this Act.

(2) All sums so paid over shall be invested by the Public Trustee but shall be subject to withdrawal of any amounts from time to time upon the written requisition of the provincial officer, provided that the provincial officer shall not have at any time in his possession or under his control an amount greater than \$5,000. R.S.O. 1937, c. 217, s. 29.

Funds, how
dealt with.

CHAPTER 52

The Children's Maintenance Act

1. Every parent shall be liable for the maintenance and ^{Liability of parent for maintenance.} education of his child under the age of 16 years, regard being had to his station in life and means and to the ability of the child to maintain himself. R.S.O. 1937, c. 213, s. 1.

2. Every parent failing without lawful excuse to provide ^{Penalty.} for the maintenance and education of his child according to his ability and the need of the child shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a term of not more than three months. R.S.O. 1937, c. 213, s. 2.

3. Nothing in this Act shall be construed as compelling ^{Remedial treatment.} any special remedial treatment for any child contrary to the objection of the parent, guardian or person acting *in loco parentis*. R.S.O. 1937, c. 213, s. 3.

CHAPTER 53

The Children's Protection Act**1. In this Act,**Interpre-
tation.

- (a) "board" means board of directors or executive committee of a children's aid society;
- (b) "boarding home" includes any home or dwelling in which a child is placed or kept upon payment of compensation, whether such home or dwelling is privately occupied or forms part of, or is connected with a hospital or a correctional, custodial, charitable or any other institution;
- (c) "child" means a boy or girl actually or apparently under 16 years of age;
- (d) "children's aid society" or "society" means a society approved by the Lieutenant-Governor in Council under this Act, and, in a county or district in which there is no children's aid society, means the Superintendent;
- (e) "foster home" means a home in which a neglected child may be placed;
- (f) "judge" means judge or junior or acting judge of a county or district court, or magistrate, or judge of the juvenile court, when such magistrate or judge of the juvenile court has been designated by the Lieutenant-Governor in Council a judge within the meaning of this Act;
- (g) "local superintendent" means the officer appointed by a children's aid society upon the approval of the Lieutenant-Governor in Council to carry out this Act in the territory over which the children's aid society has jurisdiction;
- (h) "Minister" means Minister of Public Welfare;
- (i) "municipality" means a county, city or separated town, except that in a territorial district it means a city, town, village or township; R.S.O. 1937, c. 312, s. 1, cls. (a-i).

(j) "neglected child" means,

- (i) a child who is an orphan and who is not being properly cared for by anyone, or who is brought, with the consent of the person in whose charge he is, to the judge to be dealt with under this Act,
- (ii) a child who is abandoned or deserted by his parents or only living parent, or who is deserted by one parent and whose other parent is unable to maintain him,
- (iii) a child whose parents, only living parent, guardian or other person in whose charge he may be, cannot by reason of disease, or misfortune, or infirmity, properly care for him,
- (iv) a child whose home, by reason of neglect, cruelty, or depravity on the part of his parents, guardian or other person in whose charge he may be, is an unfit and improper place for him,
- (v) a child found living or associating with a thief, drunkard, vagrant, prostitute or other dissolute person not its parent or living in or frequenting a house of ill-fame,
- (vi) a child found begging or receiving alms in a public place or carrying on a street trade contrary to this Act, or loitering in a public place after nine o'clock in the evening after being warned as provided by section 16,
- (vii) a child who, with the consent or connivance of his parent or parents, commits any act which renders him liable to a fine or to be sent to any prison or reform institution under any Act of the Parliament of Canada or of the Legislature or under any municipal by-law,
- (viii) a child who by reason of inadequate parental control is delinquent or incorrigible, or who is growing up without salutary parental control or under circumstances tending to make him idle or dissolute,
- (ix) a child who, without sufficient cause, habitually absents himself from his home or school,

- (x) a child born out of lawful wedlock who is deserted, or whose mother is dead and who is not being properly cared for by anyone, or whose mother is unable, or through misconduct is unfit, to properly care for him,
- (xi) a child whose parents neglect or refuse to provide or secure proper medical, surgical or remedial care or treatment necessary for his health or well-being, or who refuse to permit such care or treatment to be supplied to the child when recommended by a duly qualified medical practitioner,
- (xii) a child who is not being properly cared for and whose only parent is serving a term of imprisonment and who is brought, with the consent of the person in whose charge he is, to judge to be dealt with under this Act,
- (xiii) a child who by reason of ill-treatment, cruelty, continual personal injury, grave misconduct or frequent intemperance by or of either of his parents or his guardian or other person in whose charge he may be, is in peril of loss of life, health or morality; R.S.O. 1937, c. 312, s. 1, cl. (j); 1945, c. 3, s. 1; 1949, c. 11, s. 1.
- (k) "parent" includes everyone who as parent, guardian or head of a family is under a legal duty to provide necessities for any child;
- (l) "place of safety" includes a shelter or temporary home established by a children's aid society or any institution established for the care and protection of children, or any place established as a temporary home under section 4, but not a jail, prison, police station or lock-up;
- (m) "public place" means a street, highway or lane, whether a thoroughfare or not, and a tavern or other place of public resort, to which the public have or are permitted to have access for the purposes of entertainment;
- (n) "Superintendent" means Superintendent of Neglected and Dependent Children appointed under this Act. R.S.O. 1937, c. 312, s. 1, cls. (k-n).

Appoint-
ment and
duties of
Superin-
tendent.

2. The Lieutenant-Governor in Council may appoint an officer to be known as the Superintendent of Neglected and Dependent Children and such other officers and servants as may be deemed necessary, whose salaries shall be paid out of such money as may be appropriated by the Legislature for that purpose, or partly out of money appropriated for children's aid work as directed by the Lieutenant-Governor in Council, and it shall be the duty of the Superintendent,

- (a) to encourage and assist in the establishment of children's aid societies;
- (b) to advise such societies and instruct them as to the manner in which their duties are to be performed;
- (c) to see that a record in such form as may be prescribed by the Superintendent is kept by such societies of all committals, and of all children placed in foster homes under this Act and of such other particulars as may be deemed desirable;
- (d) to direct and supervise the visiting of any place where a child is placed pursuant to this Act;
- (e) to prepare and submit an annual report to the Minister;
- (f) to keep accurate books of account of all moneys received by him as Superintendent showing in detail all receipts and payments;
- (g) to perform such other duties as may be prescribed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 312, s. 2.

Superin-
tendent
acting in
lieu of
children's
aid society.

3. The Superintendent shall have and may exercise, in a county or district in which there is no children's aid society, all the powers conferred on a children's aid society, and shall have power to appoint such person as he may see fit to act for him under this section. R.S.O. 1937, c. 312, s. 3.

Children's
shelters.

4.—(1) For the better protection of neglected children, the corporation of every city or county shall provide, to the satisfaction of the Minister, one or more places of refuge for such children only, to be known as temporary homes or shelters, and shall adequately maintain the same to the satisfaction of the Minister.

Orphanages
and
children's
homes.

(2) An orphanage or children's home may, with the consent of the trustees or governing body thereof, be used as a temporary home or shelter under this section, and when desirable

in the circumstances of the particular case and not inconsistent with the welfare of the children to be provided for, such temporary home or shelter may be established in a private family.

(3) Subject to section 7, when a children's aid society has been established, it shall receive into the temporary home or shelter provided by or at the expense of the municipality all children found to be neglected under this Act and shall have their supervision and management. Supervision of shelters.

(4) Any children's aid society may furnish temporary shelter to any child with the consent of the parents or parent or person in charge of the child and may charge the municipality in which such child is resident with the maintenance thereof at a rate not exceeding \$1 per diem on the written requisition of the mayor or reeve of such municipality. Temporary shelter.

(5) The corporation of a county and any cities and separated towns in the county or any two or more of them may, with the approval of the Minister, enter into an agreement to acquire a site for and erect and maintain thereon one or more joint temporary homes or shelters, and in such case it shall not be necessary for a county or a city to comply with subsection 1. Joint shelters.

(6) The council of a county or a city for the purpose of subsection 1, and the council of a county, a city or separated town for the purposes of subsection 5, may, without the assent of the electors, borrow money by the issue of debentures payable within a period of 15 years from the issue thereof, to meet the cost of, or its share of the cost of providing or acquiring a site for and erecting such temporary homes or shelters. Debentures to pay cost or share of cost of building. R.S.O. 1937, c. 312, s. 4.

5.—(1) In any electoral district, town or village there may be established by the children's aid society of the county, or by the Superintendent, a committee consisting of not less than six persons, at least one-half of whom shall if practicable be women, to be known as the "children's committee", and the committee and the members thereof shall co-operate with the Superintendent and with the children's aid societies. Children's committees.

(2) The committee or any member thereof shall have and may exercise the powers conferred by sections 6 and 7 under the direction of the society, and may adopt such methods as they may think best for securing voluntary subscriptions to be devoted to carrying out the objects of this Act. R.S.O. 1937, c. 312, s. 5. Powers of committee.

Probation
officers.

6. The local superintendent and any member of the staff of a children's aid society who has been designated by the Board, may act as a probation officer for the purpose of enforcing this Act and *The Training Schools Act.* 1947, c. 13, s. 1.

Rev. Stat.,
c. 396.

Neglected
child, ap-
prehension.

7.—(1) A constable or other police officer, or a person authorized under section 6 to act as a probation officer may apprehend without warrant and take to a place of safety any apparently neglected child.

Proceedings
before
judge.

(2) The child shall be returned to his parents or guardians or be brought before the judge for examination within one week after apprehension, and the judge shall investigate the facts of the case and ascertain whether the child is a neglected child and his age, and the name, residence and religion of his parents.

Witnesses.

(3) The judge may compel the attendance of witnesses and may require the attendance of the Crown attorney upon such investigation, and for such attendance the Crown attorney shall be entitled to a fee of \$5 payable by the county.

Notification
of parents,
etc.

(4) The judge shall not proceed to hear or dispose of the matter until he is satisfied that the parents or the person having the actual custody of the child, if he is in the custody of any person other than a parent, have been notified of the investigation, or that every reasonable effort has been made in the opinion of the judge to cause them to be so notified.

Evidence.

(5) The evidence of every witness shall be taken under oath and, unless taken by a stenographer, the judge shall cause the same to be taken down in writing and signed by the witness in the same manner as upon a preliminary investigation before a justice.

Who may
represent
child.

(6) The judge may hear any person on behalf of the child.

Custody
pending
hearing.

(7) Pending the hearing or determination of any such case the judge may make such order for the temporary custody and care of the child as he may deem proper.

What order
may be
made by
judge.

(8) If the judge finds the child to be a neglected child he may make an order,

(a) that the case be adjourned *sine die* and that the child be returned to his parent or guardian or other person in whose charge he may be, subject to inspection and supervision by the children's aid society;

- (b) that the child be temporarily committed to the care and custody of the children's aid society for such specified period as in the circumstances of the case he may deem necessary, provided that such period shall not exceed 12 months; or
- (c) that the child be committed permanently to the care and custody of the children's aid society.

(9) Where the judge has ordered that a child returned to his parent or guardian or other person in whose charge he may be shall be under the inspection and supervision of the children's aid society, the society may at any time bring the case again before the judge for further and other consideration and action under this section, and where a child has been temporarily committed to the care and custody of the society, the society may at any time during the period of temporary commitment bring the case again before the judge for further and other consideration and action under this section, and if the temporary commitment has not been earlier terminated, the case shall, at the expiration of the specified period, again come before the judge and the judge shall thereupon further inquire and determine whether the circumstances justify an order returning the child to the parent or guardian or making a further order under subsection 8.

Procedure where child committed temporarily to care of society.

(10) During the period of temporary commitment, the society shall keep the child in a temporary home or shelter or in some other suitable place and shall exercise during such period all the rights of the legal guardian of such child except as to proceedings under *The Adoption Act* and under section 13 of this Act.

Custody of child during temporary commitment.

Rev. Stat., c. 7.

(11) The inquiry may be made at the hearing directed under subsection 2 or at any subsequent time as the judge may determine.

Inquiry, when to be made.

(12) The order shall contain a statement of the facts so far as ascertained, and shall name the municipal corporation liable for maintenance, and shall be filed with the Superintendent, and the judge shall transmit a certified copy thereof to the children's aid society.

Order to be filed with Superintendent and society.

(13) The expense of conveying a child to any shelter or industrial school shall be paid by the treasurer of the county, city, separated town or provincial judicial district in which the child is domiciled, and the person conveying the child shall, when practicable, be an officer of a children's aid society.

Expenses of conveyance of child.

Proceedings
to be
certified to
Superin-
tendent.

(14) A certified copy of the evidence taken, and of other proceedings under the hand and seal of the judge, shall be transmitted to the Superintendent with the certified copy of the order of the judge.

Notice to
municipality.

(15) A municipal corporation shall not be liable for the maintenance of a neglected child or for the expenses incurred under subsection 13 unless the corporation has received two days notice in writing of the intention to apply to the judge for an order declaring that the child was properly a resident of the municipality and that the corporation is liable for such maintenance or expenses. R.S.O. 1937, c. 312, s. 7 (1-15).

Employment
of local
constables.

8. The Superintendent and any person acting under his authority, or a local superintendent, may call to his aid in the performance of his duties a constable of the locality, and the constable when so called shall be entitled for his services to the same fees as he would be entitled to for like services under *The Administration of Justice Expenses Act*, and the same shall be payable in like manner as the fees of constables are payable under that Act. R.S.O. 1937, c. 312, s. 8.

Rev. Stat.,
c. 5.

Committal
of deserted
child to a
society.

9. The superintendent of any infants' or children's home or other public institution having the custody of children may bring before the judge any child who is neglected or deserted by his parents, or who is an orphan requiring guardianship, and the judge may make an order committing the child to the care of a children's aid society under this Act. R.S.O. 1937, c. 312, s. 9.

Maintenance
by
municipality.

10.—(1) In any direction for the temporary custody and care of a child pending the hearing or determination of the case, the judge may order, and when committing a child to the custody or control of a children's aid society the judge shall order the payment by the corporation of the municipality to which the child belongs of a reasonable sum, not less than 75 cents a day, for the maintenance of the child by the society in a temporary home, an institution, a foster home or elsewhere where children are not cared for without compensation. R.S.O. 1937, c. 312, s. 10 (1); 1947, c. 13, s. 2.

Where
child
belongs.

(2) Subject to subsections 3 and 4, for the purposes of this section a child shall be deemed to belong to the municipality in which the child has last resided for the period of one year, but, subject as aforesaid, in the absence of evidence to the contrary, residence for one year in the municipality in which the child was taken into custody shall be presumed.

(3) Where the child has not resided in any municipality in Ontario for one year, the municipality in which the child's mother has last resided for one year at any time since the birth of the child or during the period of five years before the birth of the child shall be deemed to be the municipality to which the child belongs. Where mother's residence taken.

(4) In the computation of the time in subsections 2 and 3, the time during which the child or its mother was an inmate of a children's, infants', maternity or other boarding home, a correctional or charitable institution, a hospital or any home or institution for custodial, medical or other care or supervision shall not be regarded and the time during which the mother has resided in a municipality while her child was an inmate of any such home or institution shall likewise be disregarded. Periods to be excluded in fixing time.

(5) In all other cases the child shall be deemed to belong to the municipality in which he was taken into custody. Other cases.

(6) A copy of the order with a copy of the depositions shall be forwarded by registered letter to the clerk of the municipality so declared liable for the expense of supporting the child. Order to be sent to clerk of municipality.

(7) Unless within one month after the mailing of the order the corporation of the municipality applies to the judge making the order to vary the order by having some other municipality declared liable for the expense of supporting the child, the order shall be final and conclusive. Municipality disputing liability.

(8) The corporation of a municipality which has made a payment under this section for the maintenance of a child in respect to whom some other municipal corporation is liable shall be entitled to recover the amount so paid from such other corporation. Recovery from other municipalities.

(9) At any time after the commitment of the child to the care and custody of the children's aid society, the society may apply to the judge for an order for the payment of such additional maintenance as he may deem just. R.S.O. 1937, c. 312, s. 10 (2-9). Application for additional maintenance.

(10) Where in the opinion of the Minister liability under this section would in any year unduly burden any municipality in a territorial district other than a city or town, the Lieutenant-Governor in Council, upon the recommendation of the Minister, may make special grants by way of provincial aid to relieve in whole or in part such municipality from the burden. 1942, c. 34, s. 4. Relief of certain municipalities.

Provincial
aid.

(11) Where an order is made against a municipality under subsection 1 there shall be paid to the municipality an amount equal to 25 per cent of the amount of the net expenditures of the municipality under such order, except that where the order is made against a county the amount otherwise payable to the county under this subsection shall be paid to each municipality forming part of the county in the proportion that the equalized assessment of the municipality bears to the total equalized assessment of the county. 1949, c. 11, s. 3 *part*; 1950, c. 79, s. 3 (1).

Moneys to
be voted.

(12) The amounts payable to a municipality under subsection 11 shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1949, c. 11, s. 3, *part*.

Judge may
order parent
to
contribute.

11.—(1) The judge may order the parent of a child who has been committed to a children's aid society to contribute toward the child's maintenance, or to refund to the municipality the whole or any part of the sum which it has been ordered to pay.

Municipality
not relieved.

(2) Nothing in this section shall relieve the municipal corporation from payment when the parent is unable or refuses to contribute.

Enforcing
the order.
Rev. Stat.,
c. 102.

(3) An order made under this section may be enforced in the same manner as an order under *The Deserted Wives' and Children's Maintenance Act*. R.S.O. 1937, c. 312, s. 11.

Interpre-
tation.

12. For the purposes of sections 10 and 11, "child" includes a boy or a girl over the age of 16 years of whom a children's aid society is the legal guardian under this Act. R.S.O. 1937, c. 312, s. 12.

Power and
duty of
the society.

Rev. Stat.,
c. 7.

13.—(1) The children's aid society to the care of which a child has been permanently committed shall be the legal guardian of such child until the child has attained the age of 21 years or is adopted under *The Adoption Act*, or some other legal guardian is appointed, or the guardianship is renounced by the children's aid society with the approval of the Superintendent, and it shall be the duty of the society to use diligence in providing a suitable home for the child. R.S.O. 1937, c. 312, s. 13 (1).

Society
may place
child in
foster home.

(2) The society may place the child in a foster home during minority, or for any shorter period, upon such terms and conditions as may be agreed upon and every such agreement heretofore or hereafter entered into, whether written or oral, shall be deemed to provide,

- (a) that the child shall receive an education in accordance with the law of Ontario;
 - (b) that the child shall be taught some useful occupation;
 - (c) that the child shall receive kind and proper treatment as a member of the family; and
 - (d) that the society may at any time withdraw the child from any person having the custody of the child when, in the opinion of the society or the Superintendent, the welfare of the child so requires.
- 1944, c. 10, s. 1.

(3) All such agreements shall be filed with the Superintendent, and the society shall in the month of January of each year report to the Superintendent all money received by it under such agreements. Filing of agreements. R.S.O. 1937, c. 312, s. 13 (3).

14.—(1) Any person having the care, custody, control or charge of a child who abandons, deserts, neglects or fails to support the child or inflicts unreasonable cruelty or ill-treatment upon the child not constituting an assault, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 and shall, in lieu of or in addition thereto, be liable to imprisonment for a term of not more than one year. Deserting, neglecting, etc. Penalty.

(2) The judge may in all cases arising under this section make such order regarding the maintenance and custody of any such child, and the right of access thereto of any person, or of either parent, having regard to the welfare of the child, and to the conduct of the parent or person, and to the wishes of the mother as well as of the father, and may at any time alter, vary or discharge any order so made. Power of judge.

(3) Any maintenance order so made may be enforced in the same manner as an order for the payment of money under Enforcing maintenance order. *The Deserted Wives' and Children's Maintenance Act.* R.S.O. 1937, c. 312, s. 14. Rev. Stat., c. 102.

15.—(1) No girl under 16 years of age and no boy under 12 years of age shall engage in or be licensed or permitted to engage in any street trade or occupation. Street trades.

(2) No boy under 16 years of age shall engage in any street trade or occupation between the hours of ten o'clock in the afternoon and six o'clock in the forenoon of the following day. Idem. R.S.O. 1937, c. 312, s. 15.

Child in
public place
at night.

16.—(1) No child shall loiter in any public place after nine o'clock in the afternoon or be in any place of public resort or entertainment after that hour unless accompanied by his parent or guardian or an adult appointed by the parent or guardian to accompany such child.

To be
warned and
taken home
or to shelter.

(2) A child found violating subsection 1 may be warned by any constable or probation officer or officer of a children's aid society, and if the warning is not regarded, or after the warning the child is again found disobeying this section, the child may be taken by the constable or officer to his home or to the children's shelter.

Penalty
for parent.

(3) A parent who permits his child to violate this section shall be guilty of an offence and on summary conviction for the first offence shall be liable to a penalty of \$1 without costs, and for a second offence \$2, and for a third or any subsequent offence, \$5. R.S.O. 1937, c. 312, s. 16.

Offences,

17.—(1) Every person who,

causing
child to beg;

(a) causes or procures a child to be in any public place for the purpose of begging or receiving alms or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering any thing for sale or otherwise; or

to perform
or sell in
public after
9 p.m.;

(b) causes or procures a child to be in any public place for the purpose of singing, playing, or performing for profit, or offering anything for sale between nine o'clock in the afternoon of one day and seven o'clock of the following morning; or

to be in
circus, etc.
for purpose
of perform-
ing.

(c) subject to subsection 2, causes or procures any child to be at any time for the purpose of singing, playing or performing for profit or offering anything for sale in any circus, theatre or other place of public amusement to which the public are admitted by payment,

Penalty.

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 and in lieu of, or in addition thereto, shall be liable to imprisonment for a term of not more than one year.

Permission
for child to
perform in
public.

(2) In the case of any entertainment or series of entertainments to take place in premises used for public entertainment or in any circus, theatre or other place of public amusement, where it is shown that proper provision has been made to

secure the health and kind treatment of a child proposed to be employed thereat, the head of the council of the municipality may grant a licence for such time and during such hours of the day and subject to such restrictions and conditions as he may think fit for any child over 10 years of age of whose fitness to take part in such entertainment or series of entertainments without injury he is satisfied, and such licence may at any time be varied, added to or revoked by him.

(3) The municipal council shall assign to some person the duty of seeing that the restrictions and conditions of any licence granted under this section are duly complied with, and such person shall have power to enter, inspect and examine any place at which the employment of a child is for the time being licensed, and that duty shall be discharged by the chief constable of the municipality until some other person is appointed. R.S.O. 1937, c. 312, s. 17.

Officer to be appointed to supervise.

18.—(1) If it appears to a judge or a justice of the peace, on information laid before him on oath,

Search for neglected child.

- (a) that there is reasonable cause to suspect that a child has been or is being ill-treated or neglected in any place within the jurisdiction of such justice; or
- (b) that a child who is a ward of the children's aid society has been unlawfully removed from the custody of such society and is being concealed or harboured in any place within his jurisdiction,

such justice may issue a warrant authorizing any person named therein to search for such child and to take him to and detain him in a place of safety until he can be brought before a judge, and the judge before whom the child is brought may cause him to be dealt with as provided for in this Act.

(2) Any person authorized by the warrant may enter, if need be by force, any house, building or other place specified in the warrant and may remove the child therefrom.

Right of entry.

(3) It shall not be necessary in any information or warrant laid or issued under this section to describe the child by name.

Particular description not needed.

R.S.O. 1937, c. 312, s. 18.

19.—(1) No person shall,

Interfering with wards of children's aid society.

- (a) induce any child in the custody or control of any children's aid society, immigration society, children's institution or industrial school to leave the building and premises of such institution;

- (b) induce or attempt to induce a child under the age of 21 years to leave any service or apprenticeship or any place where the child has been lawfully placed for the purpose of being nursed, supported, educated, adopted or employed;
- (c) induce or attempt to induce any child under the age of 21 years to break any articles of apprenticeship or agreement lawfully entered into by or with the authority of the trustees or directors or governing body of any such children's aid society, immigration society, home or institution respecting such child; or
- (d) detain or harbour such child after demand made by or on behalf of any officer of any such society or institution for delivery up of such child.

Penalty.

(2) Every person who violates this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 and shall also be liable to imprisonment for a period of one year. R.S.O. 1937, c. 312, s. 19.

Judge upon summary conviction may suspend sentence.

20. The judge, upon the summary conviction of any person charged before him with a violation of any of the provisions of this Act, may impose conditions upon such person and may suspend sentence subject to such conditions, and upon proof at any time of the violation of any condition so imposed, may pass sentence upon such person. R.S.O. 1937, c. 312, s. 20.

Separate custody of juvenile offenders.

21.—(1) A child charged with an offence or who is brought before a judge under any of the provisions of this Act shall not, before trial or examination, be confined in a lock-up or a police cell used for persons charged with crime, nor, save as hereinafter mentioned, shall such child be tried or have his case disposed of in the magistrate's court room ordinarily used.

Municipalities to make provision.

(2) The council of every local municipality shall make provision for the separate custody and detention of such child prior to its trial or examination by arrangement with some person or society willing to undertake the responsibility of such temporary custody or detention on such terms as may be agreed upon, or by providing suitable premises entirely distinct and separated from the ordinary lock-ups or police cells.

Children's courts.

(3) The judge shall try such child or examine into his case and dispose thereof in premises other than the ordinary

magistrate's court premises or, where this is not practicable, in the private office of the judge, if he has one, or in some other room in the municipal building.

(4) Where a children's aid society possesses premises affording the necessary facilities and accommodation, a child may, after apprehension under this Act, be temporarily taken charge of by the society until his case is disposed of, and the judge may hold the examination into the case of such child in the premises of the society.

Inquiry may take place in premises of society.

(5) When a child or a parent charged with an offence in respect of a child under this Act is being tried, the judge may exclude from the room or place where such person is being tried or examined all persons other than the counsel and witnesses in the case, officers of the law or of any children's aid society and the immediate friends or relatives of the child or parent. R.S.O. 1937, c. 312, s. 21.

Trial of child or parent, excluding the public.

22.—(1) Where a complaint is made or pending against a child, the police official having charge of the child shall at once cause notice in writing to be given to the executive officer of the children's aid society, if there be one in the county or district, who shall have opportunity allowed him to investigate the charge.

Notice of complaint against child to be sent to society.

(2) Upon receiving such notice the officer may inquire into and make full examination as to the parentage and surroundings of the child and all the circumstances of the case and report the same to the judge in open court.

Society's officer to make inquiry.

(3) Where it appears to the judge that the public interest and the interest of the child will be best served thereby, an order may be made for the return of the child to his parents or friends, or the judge may place the child under the guardianship of the children's aid society or of an industrial school. R.S.O. 1937, c. 312, s. 22.

Judge may order society to take charge of child.

23.—(1) The judge instead of committing a child to prison may hand over the child to the charge of a home for destitute and neglected children or industrial school or children's aid society, and the managers of such home, school or society may permit the adoption of the child by a suitable person, or may apprentice the child to a suitable trade, calling or service.

Judge may hand over child to home or industrial school.

(2) The parents of such child shall not remove or interfere with the child so adopted or apprenticed except by permission in writing of the home, school or society. R.S.O. 1937, c. 312, s. 23.

Interference by parent.

Child not to be confined in company of adult offenders.

24. A child held for trial or under sentence in any gaol or other place of confinement shall not be placed or allowed to remain in the same cell or room in company with adult prisoners, and the officer in charge of such place of confinement shall secure the exclusion of the child from the society of adult prisoners during its confinement. R.S.O. 1937, c. 312, s. 24.

Presumptive age of child.

25. Where a person is charged with an offence under this Act in respect of a child who is alleged to be under a specified age, and the child appears to the judge to be under that age, such child shall for the purposes of this Act be deemed to be under that age unless the contrary is proved. R.S.O. 1937, c. 312, s. 25.

Application to court for production of child.

26.—(1) Where a parent applies to a judge of the Supreme Court for an order for the production of a child committed under this Act, and the judge is of opinion that the parent has neglected or deserted the child or that he has otherwise so conducted himself that the judge should refuse to enforce his right to the custody of the child, the judge may in his discretion decline to make the order.

Court may order compensation.

(2) If at the time of the application the child is being brought up by another person or has been placed out by a children's aid society, the judge, if he directs the child to be given up to the parent, may order that the parent shall pay to such person or society the whole of the expense properly incurred in bringing up the child, or such portion thereof as may seem just.

Order when child deserted or brought up by others.

(3) Where a parent,

(a) has abandoned or deserted his child; or

(b) has allowed his child to be brought up by another person at that person's expense, or by a children's aid society, for such time and under such circumstances as to satisfy the court that the parent was unmindful of his parental duties,

the judge shall not make an order for the delivery of the child to the parent unless the parent satisfies the judge that, having regard to the welfare of the child, he is a fit person to have the custody of the child.

Order as to religious education.

(4) If the judge is of opinion that the parent ought not to have the custody of the child, but that the child is being brought up in a different religion from that in which the

parent has a legal right to require that the child shall be brought up, the judge shall have power to make such order as he may think fit to secure that the child be brought up in that religion.

(5) Nothing in this section shall affect the power of the judge to consult the wishes of the child in determining what order ought to be made or any right which a child now possesses to exercise his own free choice. R.S.O. 1937, c. 312, s. 26. Child's wishes to be consulted.

27.—(1) A Protestant child shall not be committed to the care of a Roman Catholic children's aid society or institution, nor shall a Roman Catholic child be committed to a Protestant children's aid society or institution, and a Protestant child shall not be placed out in any Roman Catholic family as its foster home, nor shall a Roman Catholic child be placed out in any Protestant family as its foster home. Religion of child.

(2) This section shall not apply to the care of a child in a temporary home or shelter in a municipality in which there is but one children's aid society. Where only one society in municipality.

(3) A child shall be deemed to be a Protestant child if his father is a Protestant, and a child shall be deemed to be a Roman Catholic child if his father is a Roman Catholic, unless it is shown that an agreement had been entered into in writing, signed by the parents, that the child should be brought up in the faith of his mother and that faith is not the faith of his father. When child to be deemed Protestant or Roman Catholic.

(4) The illegitimate child of a Protestant mother shall be deemed to be a Protestant child, and the illegitimate child of a Roman Catholic mother shall be deemed to be a Roman Catholic child. R.S.O. 1937, c. 312, s. 27. Illegitimate child.

28. Every society or person to whose care a child is committed under this Act, and every person entrusted with the care of any such child, shall from time to time permit the child to be visited, and any place where the child may be or reside to be inspected by the Superintendent or any person duly authorized in that behalf. R.S.O. 1937, c. 312, s. 28. Right of Superintendent to inspect.

29. The council of every municipality shall have power to pass by-laws for the levying of such amounts as it may be deemed necessary or desirable to raise for the purpose of complying with any obligation imposed on such municipality by any provision of this Act, or for the purpose of affording to a children's aid society such other assistance as may be deemed desirable. R.S.O. 1937, c. 312, s. 29. Municipal by-laws in aid.

Authority
to bring
children
into
Ontario.

30.—(1) The Lieutenant-Governor in Council may authorize any society or agent to carry on the work of bringing into Ontario neglected or dependent children who are not feeble-minded and who before arrival in Ontario are certified by a duly qualified medical practitioner to be free from disease of any kind, for the purpose of providing foster homes for such children or binding them as apprentices or otherwise.

Conditions
of authority.

(2) Authority to bring such children into Ontario shall only be granted on condition that if any such child becomes, within five years of his immigration, an inmate of a prison, hospital or other charitable institution where such child is likely to become a permanent charge, the Superintendent shall notify the society or agent under whose auspices the child was brought into Ontario in order that such child may be deported. R.S.O. 1937, c. 312, s. 30.

Societies to
keep records.

31.—(1) Every such society or agent shall keep a record in a register prescribed by the Superintendent for that purpose of the names of all children brought into Ontario, their ages and such particulars as may be required to indicate the provision made for each child's adoption or apprenticeship, and a copy of the records made by each society or agent shall be filed with the Superintendent on the 1st days of January and July of each year.

Penalty for
false return.

(2) Any society or agent who knowingly makes or is a party to the making of or procuring to be made, directly or indirectly, any false return shall incur a penalty of \$1,000 which may be recovered with costs by action at the suit of the Crown only. R.S.O. 1937, c. 312, s. 31.

Duties of
societies
and agents
as to
children
brought into
Ontario.

32. Every society or agent shall maintain careful supervision over every child brought or caused or procured to be brought into Ontario by such society or agent until the child attains the age of 18 years, and it shall be the duty of the society or agent to cause a personal visit by an agent, specially appointed for that purpose, to be made to each such child at least once in every year until the child has attained such age, and for the purposes of this Act, and for the protection of the person and earnings of the child, the society or agent, until the child attains the age of 18 years, shall have all the powers and shall perform all the duties by law provided in the case of the guardian of an infant. R.S.O. 1937, c. 312, s. 32.

Formation
of children's
aid societies.

33. A children's aid society may be formed having among its objects the purposes of the protection of children from cruelty, the care and control of neglected children, and generally the discharge of the functions of a children's aid society

under this Act, but no such society shall be authorized to act as such until the formation of the society has been approved by the Lieutenant-Governor in Council. R.S.O. 1937, c. 312, s. 33.

34.—(1) Upon the approval of the Lieutenant-Governor in Council a children's aid society shall become a body corporate and politic and may buy, sell, lease, hold or otherwise deal with real and personal property for the purposes of the society and may contract in its corporate name. Society may hold property.

(2) The Lieutenant-Governor in Council may make regulations respecting the mode of incorporation of children's aid societies and the fees, if any, to be paid on incorporation, and may for such societies prescribe a model or standard form of constitution and by-laws with power to approve any variations therefrom as the circumstances applicable in respect to any such society may seem to warrant. Mode of incorporation and model constitution, etc.

(3) The constitution and by-laws of every children's aid society shall contain such provisions for the proper care, treatment and inspection of all children of which it is the legal guardian or which are in any way in its charge, as the regulations may prescribe, and a certified copy of the constitution and by-laws of a children's aid society shall be filed with the Department of Public Welfare forthwith after they are adopted and shall be subject to the approval of the Minister. Constitution and by-laws to be filed.

(4) It shall be the duty of the directors or members of the executive committee of a children's aid society to ensure that the provisions of its constitution and by-laws for the proper care, treatment and inspection of all children of whom it is the legal guardian or who are in any way in its charge, are observed, performed and carried out. Duty of directors and members of executive committee.

(5) The Lieutenant-Governor in Council upon the recommendation of the Minister may at any time dissolve a children's aid society or without dissolving the society may dismiss from office the board of directors or executive committee or any officer or officers thereof and direct, in case of such dismissal, the election or appointment as the case may be of a new board, committee or officer in its or his place. R.S.O. 1937, c. 312, s. 34. Power to dissolve society or dismiss officers.

35. If a society or committee established under this Act ceases to exist or is dissolved by the Lieutenant-Governor in Council, or does not hold a meeting for a period of six months, the secretary or other officer shall deliver to the Superintendent all books, documents, records and financial statements, and Dissolution of society.

pay over to him all trust funds on hand, and the society or committee shall thereupon be dissolved and its property shall be vested in the Minister, and the Superintendent shall then reorganize the work or make such arrangements for carrying it on as the Minister may approve. R.S.O. 1937, c. 312, s. 35.

Government
and officers
of children's
aid society.

36. A children's aid society shall be governed by a board of directors or executive committee composed of a president, one or more vice-presidents, a secretary, a treasurer, a local superintendent, and such other officers and members as may be determined, elected in such manner and for such period as is provided by the constitution or by-laws of the society. R.S.O. 1937, c. 312, s. 36.

Local
superin-
tendents.

37. Two or more children's aid societies may appoint the same local superintendent. R.S.O. 1937, c. 312, s. 37.

Powers of
local super-
intendents.

Rev. Stat.,
cc. 347, 303.

38. Every local superintendent of a children's aid society shall for the purposes of this Act be vested with the powers of a peace officer, or a school attendance officer under *The School Attendance Act*, and he shall be deemed an officer within the meaning of section 10 of *The Public Authorities Protection Act* and the said section and other provisions of the said Act shall apply to him in the same manner and to the same extent as to the other officers mentioned in the said section 10. R.S.O. 1937, c. 312, s. 38.

Revocation
of approval.

39. The Lieutenant-Governor in Council may at any time revoke his approval of any children's aid society and thereupon the society shall be dissolved. R.S.O. 1937, c. 312, s. 39.

Grants to
children's
aid societies.

40.—(1) In accordance with the regulations there shall be paid to each children's aid society in each year a grant of such amount as may be approved by the Lieutenant-Governor in Council.

Provincial
aid to
children's
aid societies.

(2) There shall be paid to each children's aid society an amount equal to 25 per cent of the amount of the funds it obtains each year from any campaign conducted to obtain private donations, whether the campaign is conducted by the society only or is part of a joint campaign but not from endowments, investments or payments made by a municipality as grants in excess of its statutory liability under this Act.

Moneys to
be voted.

(3) The amounts payable to children's aid societies under this section shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1949, c. 11, s. 4, *part*.

41. The Lieutenant-Governor in Council may make Regulations, regulations,

- (a) prescribing the manner of computing the amounts of provincial grants or subsidies under this Act;
 - (b) prescribing the conditions, times or manner of payment of provincial grants or subsidies under this Act;
 - (c) prescribing the records to be kept under this Act and the returns to be made to the Minister;
 - (d) prescribing the forms to be used under this Act;
 - (e) prescribing the duties of children's aid societies and prescribing the qualifications of members of their staffs;
 - (f) governing the appointment and qualifications of local superintendents and prescribing their powers and duties;
 - (g) governing the construction, alteration and remodeling of shelters;
 - (h) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1949, c. 11, s. 4, *part.*
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CHAPTER 54

The Chiropody Act

1. In this Act,

Interpre-
tation.

- (a) "Board" means Board of Regents appointed under this Act;
- (b) "chiropodist" means a person other than a duly qualified medical practitioner who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human foot;
- (c) "regulations" means regulations made under this Act. 1944, c. 11, s. 1.

2.—(1) The board known as the Board of Regents is continued and shall be composed of five persons appointed by the Lieutenant-Governor in Council. Board of
Regents.

(2) Every member of the board shall hold office for a period of two years, but any member shall be eligible for re-appointment at the expiration of his term of office. 1944, c. 11, s. 2 (1, 2), *amended*. Term of
office.

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member. Vacancies.

(4) The Lieutenant-Governor in Council shall designate from time to time one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of the Board. 1944, c. 11, s. 2 (3, 4). Chairman,
vice-chair-
man and
secretary-
treasurer.

3. The Board, with the approval of the Lieutenant-Governor in Council, may make regulations, Regulations.

- (a) for the admission of chiropodists to practise in Ontario and for the registration of all persons so admitted and the issuing of certificates of registration;

- (b) prescribing the training and qualifications of persons so to be admitted and the proofs to be furnished as to education and good character;
- (c) providing for approval of schools, colleges or universities, and prescribing educational standards, methods and hours of training and instruction facilities, and other requirements for approved schools, colleges or universities;
- (d) providing for the appointment of examiners and the examination and re-examination of applicants for registration as chiropodists, prescribing the subjects for examination, the minimum standards to be obtained on examination or re-examination, and the fees to be paid on examination and re-examination;
- (e) for maintaining a register of persons so admitted to practise, and providing for the annual renewal of registration and prescribing the fees to be paid therefor;
- (f) providing for the holding of meetings of the Board, the business to be transacted thereat, quorum, the powers and duties of the Board and of the chairman, the vice-chairman and the secretary-treasurer of the Board;
- (g) providing for the payment of a per diem allowance and an allowance for travelling and living expenses to members of the Board while engaged on business of the Board, and payment of compensation to the secretary-treasurer of the Board in lieu of a per diem allowance;
- (h) providing for the employment of such persons or services as may be required and for the payment of salaries, fees and expenses and generally for payment out of funds at the disposal of the Board;
- (i) prescribing the books and records to be kept by the Board;
- (j) providing for the auditing of the books and accounts of the Board;
- (k) prescribing the discipline and control of, and regulating the manner of carrying on business by registered chiropodists;

- (l) designating and regulating the manner in which any person registered under this Act may describe his qualification or occupation and prohibiting the use of any title, affix or prefix which in the opinion of the Board is calculated to mislead the public as to the qualification of any such person and for allowing the use of any affix or prefix not forbidden by section 51 of *The Medical Act* which in the opinion of the Board ^{Rev. Stat., c. 228.} will correctly describe the qualification or occupation of such person;
- (m) providing for the investigation of any complaint that a registered chiropodist has been guilty of misconduct or displayed such ignorance or incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (n) providing for the cancellation or suspension of the registration of any person found by the Board to be guilty of misconduct or of any violation of this Act or the regulations, or to have been ignorant or incompetent;
- (o) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1950, c. 79, s. 4.

4. Nothing in this Act or the regulations shall authorize ^{Act not to authorize general practice of medicine.} any chiropodist,

- (a) to administer any drug internally or to prescribe any drug for use internally;
- (b) to administer an anaesthetic other than a substance applied externally to the skin; or
- (c) to practise medicine, surgery or midwifery,

but nothing herein contained shall prevent the treatment by a registered chiropodist of the morbid conditions of the nails and skin and resulting minor morbid conditions of the subcutaneous tissues of the human foot. 1944, c. 11, s. 4.

5. Every person who, not being registered as a chiropodist ^{Penalty for unauthorized practice.} under this Act or who having been so registered and whose registration has been cancelled or is under suspension, practises or holds himself out as practising as a chiropodist within the meaning of this Act, or who advertises or uses or affixes any prefix to his name signifying that he is qualified to practise

as a chiropodist within the meaning of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 and upon conviction for a subsequent offence within a period of two years after such first conviction shall be imprisoned for a term of not more than three months. 1944, c. 11, ss. 5, 9.

Proof of
registration.

6.—(1) In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the secretary-treasurer of the Board, shall be sufficient evidence of all persons who are registered chiropodists in lieu of the production of the original register, and any certificate upon the printed or other copy of the register purported to be signed by any person in his capacity of secretary-treasurer of the Board under this Act, shall be *prima facie* evidence that the person is the secretary-treasurer without any proof of his signature or of his being in fact the secretary-treasurer.

Evidence
of non-
registration.

(2) The absence of the name of any person from the copy shall be *prima facie* evidence that the person is not registered under this Act.

Omission of
name from
copy.

(3) In the case of any person whose name does not appear in the copy, a certified copy under the hand of the secretary-treasurer of the entry of the name of the person on the register shall be evidence that the person is registered under this Act. 1944, c. 11, s. 6.

Saving,

7. Nothing in this Act shall apply to or affect,

practising
under other
Acts;

(a) the practice of any profession or calling by any person practising the same under any general or special Act of this Legislature;

nurses;

(b) any nurse acting in the absence of, or under the prescription or direction of a legally qualified medical practitioner;

first aid;

(c) the furnishing of first aid or temporary assistance in cases of emergency;

treating by
prayer.

(d) persons treating human ailments by prayer or spiritual means as an enjoyment or exercise of religious freedom. 1944, c. 11, s. 7.

Compliance
with other
statutes not
affected.

Rev. Stat.,
cc. 306,
406, 412.

8. Nothing in this Act or the regulations shall be taken or deemed to relieve any person from compliance with *The Public Health Act* or *The Vaccination Act* or any amendment to either of them, or from compliance with *The Vital Statistics Act* or any amendment thereto or from any legal duty to provide for the treatment of any person by a legally qualified medical practitioner. 1944, c. 11, s. 8.

CHAPTER 55

The Clean Grain Act

1. In this Act,

- (a) "grain" includes oats, barley, corn, wheat, rye, buckwheat, peas, flax, screenings and such other grain or seed as may be designated by the Lieutenant-Governor in Council whether the same is mixed or unmixed, ground or unground; ^{Interpre-}
^{tation.}
- (b) "impurities" includes such substances, matters and things as may be designated by the regulations;
- (c) "Minister" means Minister of Agriculture;
- (d) "regulations" means regulations made under this Act;
- (e) "sell" includes keep, offer or expose for sale and "sold" has a corresponding meaning;
- (f) "weed seeds" includes the seeds of any plant designated by the regulations. R.S.O. 1937, c. 345, s. 1.

2. This Act shall not apply to grain sold,

- (a) by the grower thereof to any person who puts the grain to his own use and does not resell the same;
- (b) by the grower thereof to any person for the purpose of cleaning before being resold;
- (c) for such other purposes as may be provided by the regulations. R.S.O. 1937, c. 345, s. 2.

Exceptions
as to
application
of Act.

3.—(1) Except as provided by this Act or the regulations all grain brought into Ontario shall before being sold therein be clean and free from weed seeds and other impurities as provided for in and required by the regulations. ^{Imported grain to comply with regulations before sale.}

(2) Except as provided in subsection 1, the bill of lading or invoice of every shipment of grain sold or to be sold in ^{Invoice to show compliance with Act.}

Ontario shall have printed or marked thereon a statement that the grain complies with this Act and the regulations.

Grain under shipment.

(3) All grain to which this Act applies while under shipment within Ontario shall *prima facie* be presumed to be intended to be sold in Ontario unless the bill of lading or invoice of the shipment establishes the contrary to be the case. R.S.O. 1937, c. 345, s. 3.

Sale of unclean grain prohibited.

4. No grain to which this Act applies may be sold in Ontario unless the same complies with this Act and the regulations. R.S.O. 1937, c. 345, s. 4.

Regulations.

5. The Lieutenant-Governor in Council upon the recommendation of the Minister may make regulations,

- (a) designating the plants the seeds of which shall be weed seeds within the meaning of this Act;
- (b) designating the substances, matters and things which shall be impurities within the meaning of this Act;
- (c) prescribing the maximum quantity or percentage of weed seeds or impurities which may be mixed or contained with grain to which this Act applies;
- (d) prescribing the methods and means by which grain to which this Act applies shall be cleaned and freed from weed seeds and impurities;
- (e) providing for the inspection, sampling and testing of grain to which this Act applies. R.S.O. 1937, c. 345, s. 5.

Penalty.

6.—(1) Every person who sells in Ontario any grain to which this Act applies which does not comply with this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$20 and not more than \$200 for each offence.

Seizure of grain.

(2) In addition to any penalty to which any person may be liable under this Act, any grain to which this Act applies sold in Ontario, except in compliance with this Act, may be seized by any person authorized by the Minister and may be held by such person at the expense of the owner of the grain until this Act is complied with, and failing such compliance within 21 days after seizure the grain shall be forfeited and may be disposed of as the Minister may direct. R.S.O. 1937, c. 345, s. 6.

CHAPTER 56

The Collection Agencies Act**1. In this Act,**Interpre-
tation.

- (a) "collection agency" means a person, other than a collector, who carries on the business of collecting debts for other persons in consideration of the payment of a commission or other remuneration, and includes a person who takes an assignment of debts in consideration of such payment;
- (b) "collector" means a person employed, appointed or authorized by a collection agency to solicit business or collect debts for the agency;
- (c) "licence" means licence issued under this Act;
- (d) "prescribed" means prescribed by this Act or the regulations;
- (e) "regulations" means regulations made under this Act;
- (f) "registrar" means the person designated by the Superintendent to act as registrar for the purposes of this Act and the regulations;
- (g) "Superintendent" means the Superintendent of Insurance. 1947, c. 14, s. 1.

2. The Superintendent shall administer this Act and the regulations and may designate a person to act as registrar. 1947, c. 14, s. 2.

Superin-
tendent to
administer
Act.**3. No person shall,**

- (a) carry on the business of a collection agency;
- (b) operate a branch office of a collection agency; or
- (c) carry on business as a collector,

Agency,
branch office
and collector
to be
licensed.

except under a licence therefor. 1947, c. 14, s. 3.

Application
for licence
as collection
agency.

4.—(1) Every application for a licence as a collection agency shall be made to the registrar upon the forms provided by the registrar and shall be accompanied by,

- (a) the prescribed fee;
- (b) copies of forms of agreement to be entered into with the collection agency by persons for whom the collection agency acts;
- (c) copies of forms and letters which the collection agency uses or proposes to use in making demands for the collection of money; and
- (d) a bond in such amount and form, subject to section 12, as may be prescribed by the regulations.

Type of
bond.

(2) The bond shall be,

Rev. Stat.,
c. 162.

- (a) the bond of a guarantee company approved under *The Guarantee Companies Securities Act*;
- (b) a personal bond accompanied by collateral security; or
- (c) the bond of a guarantor, other than a guarantee company, accompanied by collateral security.

Collateral
security.

(3) The collateral security shall be negotiable securities of the classes prescribed by the regulations not less in value than the sum secured by the bond, and shall be deposited with the Treasurer of Ontario. 1947, c. 14, s. 4.

Application
for licence
as collector.

5. Every application for a licence as a collector shall be made to the registrar upon the form provided by the registrar, and shall be accompanied by the prescribed fee and such other information as the registrar may require. 1947, c. 14, s. 5.

Licences.

6.—(1) The Superintendent, upon the recommendation of the registrar, may issue a licence to any person,

- (a) to carry on business as a collection agency;
- (b) carrying on business as collection agency, to operate a branch office thereof; or
- (c) to carry on business as a collector,

and every licence and renewal of licence shall expire on the 31st day of March in each year.

(2) Any licence issued under this Act may be renewed ^{Renewal of licence.} from year to year provided application for renewal is made in the prescribed form not later than the 21st day of March prior to the expiration of such licence or any renewal thereof, and every such application shall contain a statement of any change in the facts set out in the application for a licence or any prior application for renewal, and be accompanied by the prescribed fee.

(3) The Superintendent may refuse to issue or renew any licence and may suspend or cancel any licence. ^{Licence may be refused.}

(4) The Treasurer of Ontario, upon the recommendation of the registrar, may refund to an applicant for a licence or renewal any fee or part thereof paid by the applicant. ^{Refunds.}

(5) The registrar may reduce the amount of any fee payable for a licence or renewal where any substantial part of the licence period or renewal period has elapsed. 1947, c. 14, s. 6. ^{Reductions.}

7.—(1) Every collection agency shall within 10 days notify the registrar in writing of, ^{Changes in information filed.}

- (a) any change in its address for service;
- (b) any change in its officials or members; and
- (c) the commencement and termination of employment of every collector.

(2) Every collector shall within 10 days notify the registrar in writing of, ^{Notice as to employment.}

- (a) any change in his address for service; and
- (b) the commencement and termination of his employment by a collection agency. 1947, c. 14, s. 7.

8. In the event that any collection agency alters or changes any form of agreement or other form or letter such collection agency shall file the form or letter showing the alteration or change made therein with the registrar at least 14 days before the form or letter is used. 1947, c. 14, s. 8. ^{Changes in material filed.}

9. Every collection agency shall file with the registrar with every application for a renewal of a licence, a certificate satisfactory to the Superintendent as to the financial condition of the collection agency, signed by the proprietor or an official or member of the collection agency and by an independent ^{Financial statement to be filed.}

accountant satisfactory to the Superintendent and, in addition thereto, the Superintendent may at any time require a financial statement in any form to be furnished by the collection agency. 1947, c. 14, s. 9.

Disposition
of fees.

10. The registrar shall cause all moneys, cheques, money orders and postal notes in respect of fees to be deposited daily with the Treasurer of Ontario for payment into the Consolidated Revenue Fund. 1947, c. 14, s. 10.

Where Act
not to apply.

11. This Act shall not apply,

(a) to any barrister or solicitor or his employee, in the regular practice of his profession;

Rev. Stat.,
c. 183.

(b) to any insurer, agent or broker or his employee, licensed under *The Insurance Act* to the extent of the business authorized by such licence;

R.S.C. 1927,
c. 11.

(c) to any assignee, custodian, liquidator, receiver, trustee or other person acting under the *Bankruptcy Act* (Canada), *The Companies Act*, *The Judicature Act*, the *Winding-up Act* (Canada) or any person acting under the order of any court;

Rev. Stat.,
cc. 59, 190.

R.S.C. 1927,
c. 213.

Rev. Stat.,
c. 332.

(d) to any broker or salesman registered under *The Real Estate and Business Brokers Act*, or any official or other employee of such a broker to the extent of the business authorized by the registration;

1944-45,
c. 30 (Can.).

(e) to any bank to which *The Bank Act* (Canada) applies, the Province of Ontario Savings Office, any loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or any employees thereof in the regular course of their employment; or

Rev. Stat.,
c. 214.

(f) to any isolated collections made by a person whose usual business is not collecting debts for other persons. 1947, c. 14, s. 11.

Forfeiture
of bond.

12.—(1) Any bond mentioned in section 4 shall be forfeit and the amount thereof shall become due and owing by the person bound thereby as a debt due the Crown in right of Ontario,

(a) where the collection agency in respect of which the bond is given or any collector or official of the collection agency has, in connection with its collection business, been,

- (i) convicted of any criminal offence,
 - (ii) convicted of an offence against any provision of this Act or the regulations, or
 - (iii) a party to civil proceedings in the courts as a result of which judgment has been given against such collection agency, collector or other official for moneys collected for any other person; or
- (b) where proceedings by or in respect of the collection agency, including any member of a partnership, in respect of which the bond is given, have been taken under the *Bankruptcy Act* (Canada) or by way of winding-up and a receiving order under the *Bankruptcy Act* (Canada) or a winding-up order has been made, ^{R.S.C. 1927, c. 11.}

and such conviction, judgment or order has become final by reason of lapse of time or of having been confirmed by the highest court to which an appeal may be taken.

(2) A bond may be cancelled by any person bound there- ^{Cancellation of bond.} under by giving to the Superintendent at least two months notice in writing of intention to cancel, and it shall be deemed to be cancelled on the date stated in the notice, which date shall be not less than two months after the receipt of the notice by the Superintendent.

(3) For the purposes of every act and omission occurring ^{Term of bond.} during the period in which a collection agency is licensed or the period prior to cancellation of the bond under subsection 2, every bond shall continue in force and the collateral security, if any, shall remain on deposit for a period of two years after the expiration or cancellation of any licence, or the cancellation of the bond, whichever occurs first. 1947, c. 14, s. 12.

13. Where His Majesty becomes a creditor of any person in respect of a debt to the Crown arising from section 12, the Superintendent may take such proceedings as he shall see ^{Proceedings to enforce forfeiture.} fit under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Companies Act* or the *Winding-up Act* (Canada) for the ^{R.S.C. 1927, c. 11, 213.} appointment of an interim receiver, custodian, trustee, receiver or liquidator, as the case may be. ^{Rev. Stat., c. 59, 190.} 1947, c. 14, s. 13.

14. Where a bond secured by the deposit of collateral ^{Sale of collateral security.} security with the Treasurer of Ontario is forfeited under section 12, the Lieutenant-Governor in Council may direct

the Treasurer to sell the collateral security at the current market price. 1947, c. 14, s. 14.

Assignment
of bond or
payment of
moneys to
creditors.

15. The Lieutenant-Governor in Council may direct the Treasurer of Ontario,

- (a) to assign any bond forfeited under section 12 and transfer the collateral security, if any;
- (b) to pay over any moneys recovered under such bond; or
- (c) to pay over any moneys realized from the sale of the collateral security under section 14,

to any person, or to the Accountant of the Supreme Court in trust for such persons and companies as may become judgment creditors of the collection agency bonded, or to any trustee, custodian, interim receiver, receiver or liquidator of such collection agency, as the case may be. 1947, c. 14, s. 15.

Where no
claim against
proceeds
of bond.

16. Where a bond has been forfeited under section 12 by reason of a conviction or judgment under clause *a* thereof, and the Superintendent has not within two years of such conviction or judgment having become final, or of the collection agency in respect of which the bond was furnished ceasing to carry on business as such, whichever occurs first, received notice in writing of any claim against the proceeds of the bond or of such portion thereof as remains in the possession of the Treasurer of Ontario, the Lieutenant-Governor in Council may direct the Treasurer to pay such proceeds or portion thereof to the collection agency, or to any person who upon forfeiture of the bond made any payments thereunder, after first deducting the amount of any expenses which have been incurred in connection with any investigation or otherwise relating to such collection agency. 1947, c. 14, s. 16.

Agency to
account
within
30 days.

17.—(1) Every collection agency shall without any notice or demand, within 30 days after the receipt of any moneys collected, account for all moneys so received and pay them, less the proper fees of such collection agency, to the person entitled thereto, provided that when the moneys collected are less than \$5 payment to the person entitled thereto shall be made within 90 days.

Agency to
account.

(2) Every collection agency shall upon demand made by any person entitled to an accounting, or by the Superintendent

account for all moneys received on behalf of such person and pay the moneys, less the proper fees of such collection agency, to such person.

(3) Where a collection agency is unable to locate the person entitled to moneys collected by it within six months after the moneys have been collected, the collection agency shall cause the moneys to be paid to the Treasurer of Ontario and the Treasurer of Ontario may pay the moneys to the person entitled thereto upon satisfactory proof being furnished by the person that he is the person entitled to receive the moneys. 1947, c. 14, s. 17.

18. Every collection agency shall deposit all moneys collected, less the proper earned commission of the collection agency, in a separate trust account, in a chartered bank, the Province of Ontario Savings Office or a trust company authorized by law to accept deposits. 1947, c. 14, s. 18.

19. Every collection agency shall keep proper records and books of account showing moneys received and moneys paid out and such books shall include a receipt book, cash book, clients' ledger and journal. 1947, c. 14, s. 19.

20. No collection agency or collector shall, Practices prohibited.

- (a) collect or attempt to collect any moneys in addition to the amount owing by the debtor;
 - (b) make any charge against any person for whom it acts in addition to those contained in the form of agreement or in the information pertaining to fees filed with the Superintendent;
 - (c) send any telegram or make any telephone call for which the charges are payable by the addressee or the person to whom the call is made, to a debtor for the purpose of demanding payment of any debt;
 - (d) enter into any agreement with a person for whom the collection agency acts unless a copy of the form of the agreement is filed with the registrar; or
 - (e) use any form or form of letter to collect or attempt to collect money from a debtor unless a copy of the form or form of letter is filed with the registrar.
- 1947, c. 14, s. 20.

21. Every collector shall immediately notify his employer when any moneys are collected by him in the course of his employment. 1947, c. 14, s. 21.

Licence
to be
displayed.

22. Every collection agency shall keep its licence and the last renewal thereof displayed in a conspicuous place at its office and shall keep every licence for a branch office together with the last renewal thereof displayed in a conspicuous place at the branch office. 1947, c. 14, s. 22.

Investiga-
tion.

23. The registrar, or such other person as may be directed in writing by the Superintendent, shall have authority at any time between nine o'clock in the forenoon and five o'clock in the afternoon to enter the premises of any collection agency and examine its books and records. 1947, c. 14, s. 23.

Notice of
direction,
decision,
etc.

24. A notice of every direction, decision, order or ruling of the Superintendent granting or refusing to grant a licence, or refusing to renew a licence, or suspending or cancelling a licence shall be served upon the collection agency or collector whose licence is thereby affected at the address appearing in the application or upon the records of the registrar. 1947, c. 14, s. 24.

Review by
Superin-
tendent.

25.—(1) An applicant, collection agency or collector whose licence is affected by a direction, decision, order or ruling referred to in section 24 may, by notice in writing served upon the registrar within 30 days after the mailing of the notice, request a hearing and review by the Superintendent of the direction, decision, order or ruling.

Notice of
hearing.

(2) Where a hearing and review is requested under subsection 1 the registrar shall send a notice in writing of the time and place thereof to the person requesting the hearing and review stating the date and place thereof.

Evidence.

(3) Upon a review the Superintendent may hear such evidence as may be submitted to him by the person requesting the review or by any other person and which in the opinion of the Superintendent is relevant to the review but shall not be bound by the technical rules of evidence and all oral evidence submitted shall be taken down in writing and together with such documentary evidence and things as are received in evidence by the Superintendent shall form the record.

Power on
review.

(4) Upon a review the Superintendent may by order confirm or revoke the direction, decision, order or ruling under review or may make such alteration therein or addition thereto as he may deem proper.

Notice of
order.

(5) Notice of the order made upon a review shall be sent forthwith to the person requesting the review. 1947, c. 14, s. 25.

Appeal to
Supreme
Court.

26.—(1) Where the Superintendent has reviewed a direction, decision, order or ruling under section 25, the person who

requested the review may appeal to a justice of appeal of the Supreme Court.

(2) Every appeal shall be by notice of motion served upon the registrar within 30 days after the mailing of the notice under subsection 5 of section 25 and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, provided that the Rules Committee may vary or amend such practice and procedure or may prescribe the practice and procedure which shall be applicable to appeals taken under this Act. ^{Form of appeal.}

(3) The registrar shall certify to the Registrar of the Supreme Court, ^{Certificate of registrar.}

- (a) the direction, decision, order or ruling which has been reviewed by the Superintendent;
- (b) the order of the Superintendent upon the review together with any statement of reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to the Superintendent or other material which in the opinion of the registrar are relevant to the appeal.

(4) The Attorney-General may designate counsel to assist the court upon the hearing of any appeal taken under this section. 1947, c. 14, s. 26. ^{Counsel.}

27. Where an appeal is taken under section 26 the court may by its order direct the Superintendent to make such direction, decision, order or ruling or to do such other act as the Superintendent is authorized and empowered to do under this Act or the regulations and as the court deems proper having regard to the material and submissions before it and to the provisions of this Act and the regulations, and the Superintendent shall make such direction, decision, order or ruling or do such act accordingly. 1947, c. 14, s. 27. ^{Order of court.}

28. An order of the court shall be final and there shall be no appeal therefrom but notwithstanding such order the Superintendent shall have power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances and every such direction, decision, order or ruling shall be subject to sections 24 to 27. 1947, c. 14, s. 28. ^{Further direction, etc.}

Penalty for
employing
unlicensed
agency.

29. Every person who knowingly employs a collection agency not having a licence as required by this Act, or causes or procures letters or notices to be sent or verbal demands to be made upon debtors by a collection agency not having such a licence, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$200. 1947, c. 14, ss. 29, 32.

General
penalty.

30. Every collection agency or collector who violates any of the provisions of this Act or the regulations for which no other penalty is provided or who fails or neglects to carry out any order or direction of the Superintendent made under this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$200. 1947, c. 14, ss. 30, 32.

Consent
before
action.

31. No proceedings under this Act shall be instituted except with the consent or under the direction of the Superintendent. 1947, c. 14, s. 31.

Regulations.

32. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing the form of licences and renewals and applications therefor;
- (b) prescribing the fees payable for licences and renewals, and any other fees in connection with the administration of this Act and the regulations;
- (c) requiring collection agencies to make returns and furnish information to the Superintendent;
- (d) prescribing the manner of making deposits and regulating the control and disposition thereof;
- (e) governing the keeping of records, books, accounting systems and audits;
- (f) prescribing the amount and form of bonds to be furnished by collection agencies;
- (g) prescribing the classes of negotiable securities which may be accepted as collateral security for a bond;
- (h) prohibiting the use of any particular method in the collection of debts;
- (i) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1947, c. 14, s. 33.

CHAPTER 57

The Commissioners for taking Affidavits Act

- 1.** In this Act "county" includes a provisional county and a provisional judicial district. R.S.O. 1937, c. 121, s. 1. Interpretation.
- 2.**—(1) Every member of the Assembly shall be *ex officio* a commissioner for taking affidavits in Ontario. Members of Assembly.
- (2) Every solicitor of the Supreme Court and every member of the Bar of Ontario shall be *ex officio* a commissioner for taking affidavits in Ontario. Solicitors and barristers.
- (3) The clerk and treasurer of every county shall be *ex officio* a commissioner for taking affidavits in the county and the clerk and treasurer of every other municipality shall be *ex officio* a commissioner for taking affidavits in the county or district in which the municipality is situate. Municipal clerks and treasurers.
- (4) The head of every municipal council, the reeve of every town, every deputy reeve and every controller and alderman of a city, shall be *ex officio* a commissioner for taking affidavits in the county or district in which the municipality is situate. Heads of municipal councils, etc.
- 3.** The judges and the clerks of the county and district courts may take all affidavits required to be taken in their respective courts. R.S.O. 1937, c. 121, s. 3. County and district courts.
- 4.** Every commissioner for taking affidavits shall be deemed to be an officer of the Supreme Court. R.S.O. 1937, c. 121, s. 4. Commissioner to be an officer of the court.
- 5.** The Lieutenant-Governor may confer upon such officers and employees of the Income Tax Division, Department of National Revenue (Canada), or of any department of the Government of Ontario as he may designate, full power to administer oaths and take affidavits in connection with the performance of their official duties, but limited as the Lieutenant-Governor may determine. R.S.O. 1937, c. 121, s. 5; 1940, c. 28, s. 7. Commissioners for specific purposes.
- 6.**—(1) The Lieutenant-Governor may, by commission, empower any person of the full age of 21 years or over to

Commissioners for court matters.

administer oaths and take affidavits within or without Ontario in or concerning actions, causes or matters depending in or in anywise concerning any proceeding to be had in any court in Ontario.

Period of appointment. (2) The appointment of every such person appointed within Ontario shall be for a period of three years provided that any such appointment may from time to time be renewed for a period of three years at the pleasure of the Lieutenant-Governor.

Style of commissioners. (3) A commissioner so appointed shall be styled "A commissioner for taking affidavits in and for the courts in Ontario". R.S.O. 1937, c. 121, s. 6.

Indication of expiry of commission. (4) Every commissioner appointed within Ontario under this section shall indicate in writing under his signature the date upon which his commission expires. R.S.O. 1937, c. 121, s. 11 (2).

Appointment by judges. **7.** The judges of the Supreme Court or any two of them may issue under the seal of the court commissions empowering such and so many persons as they think fit and necessary to administer oaths and to take affidavits in any province or territory in Canada, in or concerning actions, causes or matters depending in or in anywise concerning any proceeding to be had in any court in Ontario. R.S.O. 1937, c. 121, s. 7.

Extent of commissioner's authority. **8.** Every commissioner may take any affidavit in anywise concerning any proceeding to be had in any court in Ontario, or before a judge of any such court, and in or concerning any application or matter made or pending before any judge of any court in Ontario which by any statute such judge is authorized to hear and determine, or in which he is authorized to make an order, although the application or matter be not made or depending in any court. R.S.O. 1937, c. 121, s. 8.

Commissioners may take declarations. **9.** Every commissioner shall have power to take declarations in all cases in which declarations may be taken, or may be required under any Act in force in Ontario. R.S.O. 1937, c. 121, s. 9.

Revocation of commissions. **10.** The Lieutenant-Governor may revoke the commission of any commissioner appointed by him or by the judges of the Supreme Court or any court formerly authorized to issue commissions, and such revocation shall operate as a revocation for all purposes. R.S.O. 1937, c. 121, s. 10.

11. Every oath and declaration shall be taken by the deponent in the presence of the commissioner, notary public, justice of the peace or other officer or person administering the oath or declaration who shall satisfy himself of the genuineness of the signature of the deponent or declarant and shall administer the oath or declaration in the manner required by law before he signs the jurat or declaration. R.S.O. 1937, c. 121, s. 11 (1).

Duty of commissioner, etc., in administration of oath.

12. Every commissioner, notary public, justice of the peace or other officer or person administering an oath or declaration who signs a jurat or declaration without the due administration of the oath or declaration shall be liable to a penalty of not less than \$25 and not more than \$500 for each offence. R.S.O. 1937, c. 121, s. 12.

Penalty for signing jurat without administration of oath.

13. Every one who in any action or proceeding or upon any application or other proceeding out of court, or for the purpose of making or maintaining any claim, files, registers or uses or in any other manner makes use of any oath, affidavit or declaration knowing that the same has not been taken, sworn to or made in conformity with section 11 shall be liable to a penalty of not less than \$25 and not more than \$500 for each offence. R.S.O. 1937, c. 121, s. 13.

Making use of affidavit improperly sworn.

14. Upon his conviction for an offence against this Act, the commissioner or appointment of a commissioner for taking affidavits, notary public or justice of the peace may be cancelled or revoked by the constituting authority. R.S.O. 1937, c. 121, s. 14.

Forfeiture of commission or appointment.

15. The Lieutenant-Governor in Council may make regulations respecting the fees payable to the Crown and the fees receivable by commissioners under this Act. R.S.O. 1937, c. 121, s. 15; 1947, c. 101, s. 5.

Regulations.

CHAPTER 58

The Community Centres Act

1. In this Act,

Interpre-
tation.

(a) "community centre" means community hall, athletic field, skating arena or outdoor skating rink;

(b) "Minister" means Minister of Agriculture;

(c) "regulations" means regulations made under this Act. 1949, c. 13, s. 1.

2.—(1) The Minister may grant aid to any municipality to assist in the establishment of a community centre, but no grant shall exceed \$5,000 nor 25 per cent of the cost of a building or that part of a building designed for a community hall or skating arena or of the cost of an athletic field or outdoor skating rink.

Grants to
municipalities for
community
centres.

(2) Grants may be made to assist in the establishment of any municipality of more than one community centre.

Idem.

(3) Notwithstanding subsection 1, where a building is designed to include both a community hall and a skating arena, the Minister may make a grant not exceeding \$10,000 nor 25 per cent of the total cost of the building or that part of the building designed for the community hall and skating arena.

Combined
community
hall and
skating
arena.

(4) The grants shall be payable out of such moneys as may be appropriated therefor by the Legislature. 1949, c. 13, s. 2.

Provision
for moneys
required.

3. All the property acquired for the purposes of this Act shall, except as hereinafter provided, be vested in the municipality. 1949, c. 13, s. 3.

Property
vested in
corporation.

4.—(1) The council of any municipality may by by-law provide for the establishment of one or more community centres in accordance with this Act, and may acquire by purchase or otherwise real and personal property for that purpose, and may enter into an agreement with the council of any adjoining municipality for the joint use of a community

By-laws for
establish-
ment of
community
centres.

centre by the inhabitants of the municipalities upon such terms as to contribution to the cost of the community centre and as to the maintenance thereof as may be agreed upon, but notwithstanding any such agreement, the aid granted under this Act shall not exceed the amount mentioned in section 2.

By-law for
acquiring
land in
another
municipality.

(2) The by-law may provide for acquiring land and establishing a community centre in an adjacent or contiguous municipality, but real property so acquired or held in an adjacent or contiguous municipality shall not be exempt from taxation by the municipality in which it is situate unless the council of the last-mentioned municipality by by-law declares that it shall be so exempt.

Exempting
such lands
from
taxation.

(3) The council of a municipality in which a community centre is established by the council of another municipality may grant such total or partial exemption from taxation as the council may deem proper and may enter into an agreement with the municipality establishing the community centre for granting such exemption.

Debentures.
Rev. Stat.,
c. 243.

(4) A municipality may issue debentures for the purposes of subsection 1 in the manner provided by *The Municipal Act*, 1949, c. 13, s. 4.

Community
centre for
school
sections.

5.—(1) Upon a petition being presented to the council of a township, signed by more than one-half the number of ratepayers in any school section or by more than one-half the number of ratepayers in each of two or more school sections or parts thereof in the township and praying that the council pass a by-law for the establishment of a community centre for such school section or sections or parts, the council may pass a by-law for the establishment of such community centre in any school section or in any village adjacent or contiguous thereto.

Issue of
debentures.

(2) The moneys required for the establishment of a community centre under this section, may be raised by the issue of debentures of the township in the manner provided by *The Municipal Act*, but it shall not be necessary to procure the assent of the ratepayers for the passing of any by-law for the issue of such debentures, and all moneys required to provide for principal and interest on the debentures issued under this section or for any other purpose in connection with the establishment of a community centre for a school section shall be raised by special rate upon all property subject to municipal taxation in the school section or school sections or parts, and in this section "ratepayers" means persons assessed and liable to taxation for general municipal purposes.

(3) Notwithstanding subsection 2, where there are profits from the operations of a community centre, the board of management may apply the profits or part of the profits to the principal and interest on any debentures issued under this section. Use of profits to pay off debentures.

(4) Where debentures are issued under this section, such debentures shall constitute a debt of the corporation of the township to the holder of the debentures and the property liable to assessment and taxation in the school section or school sections or parts shall be liable to the township as a whole for any amounts paid by the township on account of the debentures or interest thereon. Debentures to be a debt of township.

(5) Where a township council has passed a by-law for establishing a community centre for a school section, the township council by by-law, upon request of the board of school trustees, may vest the property in the board which shall thereupon have power to hold the property and shall perform the functions of the board of management as set forth in section 6. Property may be vested in the board of school trustees.

(6) In the case of a union school section composed of parts of two adjacent counties, the council of the municipality that passes the by-law for the establishment of a community centre shall have all the powers and perform all the duties that may be exercised or are to be performed under this Act in the same manner as if the whole of the school section were within the said municipality and the lands in the union school section shall, for the purposes of this Act, be deemed to lie wholly within and to be under the exclusive jurisdiction of the council passing the by-law. In union school sections.

(7) The clerk of the said council shall forthwith after the passing of the by-law imposing the special rates to pay the cost of the establishment of a community centre deliver or transmit by registered post to the clerk of the municipality in which is situate any land upon which a special rate has been imposed, a certified copy of the by-law. Transmission of copy of by-law to other municipalities.

(8) The rates required by the by-law to be levied and collected in any year upon land in any municipality other than that by the council of which the by-law is passed shall be collected by the council of such municipality in like manner as if such rates had been imposed by that council. Collection of rates in union sections.

(9) The municipality other than that by the council of which the by-law is passed shall pay to the last-mentioned municipality the sums that are to be levied and collected in Payment of share by other municipalities.

that year under subsection 8, and such payments shall be made on demand therefor at any time after the 14th day of December in that year, and shall be made whether or not such rates have been collected from the persons liable to pay them.

Lands to remain liable.

(10) Such payments shall not relieve any lands specially assessed from the special rate thereon, and such lands shall remain liable for the special rate until it is paid.

Township school areas.
Rev. Stat.,
c. 316.

(11) Where a township school area has been established under *The Public Schools Act* this section shall apply *mutatis mutandis* to the area or any part thereof. 1949, c. 13, s. 5.

Appointment of board.

6.—(1) Every community centre established by a municipality under this Act shall be under the management and control of a board appointed by the council of the municipality, composed of,

(a) two members of the council; and

(b) five members selected by the council from among the officers of the local organizations for the use of which the community centre is established, and in selecting such representatives the council shall have regard to the contribution by each organization to the erection and maintenance of the community centre.

Joint board.

(2) The council may appoint one board in the manner provided in subsection 1 to manage and control any or all community centres established by the municipality.

Vacancies on board.

(3) The council may fill any vacancy arising on the board from among the class of representatives in which the vacancy occurs.

Term of office.

(4) The representatives of the council shall be appointed annually, and shall hold office until their successors are appointed, and every other member of the board shall hold office for two years from the date of his appointment and until his successor is appointed.

Board may make rules and fix charges.

(5) The board of a community centre may make such rules as it deems necessary relating to the management and control thereof and may fix such charges for the use of the community centre as it deems advisable. 1949, c. 13, s. 6.

Grants in aid from other bodies.

7. Any municipality entering into an agreement for the joint use of a community centre, and any of the societies or

other bodies by which a community centre may be used under the regulations, may make grants out of any moneys in their hands in aid of the erection and maintenance of a community centre established under this Act. 1949, c. 13, s. 7.

8. The Minister may make grants to a public, separate, ^{Grants to school boards.} continuation or high school board, or board of education, to provide for an athletic field of satisfactory area or an outdoor skating rink, on the same terms as herein set forth, except that such fields and rinks shall be managed and conducted by the school board or board of education under the regulations of the Department of Education, and such property shall be vested in the school board or board of education, provided always that the rinks and athletic fields shall be available for the purposes permitted by the regulations. 1949, c. 13, s. 8.

9. Where aid has been granted under this Act to assist ^{Disposal of community centres.} in building a community centre out of moneys appropriated therefor by the Legislature, the community centre shall not be sold or disposed of within 20 years from the time the aid was last granted without the approval of the Minister. 1949, c. 13, s. 9.

10. The Lieutenant-Governor in Council may make regu- ^{Regulations.} lations,

- (a) prescribing the terms and conditions upon which aid may be granted under this Act;
- (b) prescribing the uses to which a community centre may be put, and the accommodation which may be provided therein;
- (c) prescribing the powers and duties of boards of management, and providing for the appointment of officers of such boards;
- (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1949, c. 13, s. 10.

CHAPTER 59

The Companies Act

PART I

INTERPRETATION

1. In this Act,

Interpre-
tation.

- (a) “company” means a company having a capital divided into shares;
- (b) “corporation” includes a company whether with or without share capital;
- (c) “private company” means a company as to which by special Act, letters patent or supplementary letters patent,
 - (i) the right to transfer its shares is restricted,
 - (ii) the number of its shareholders, exclusive of persons who are in the employment of the company, is limited to fifty, two or more persons holding one or more shares jointly being counted as a single shareholder, and
 - (iii) any invitation to the public to subscribe for any shares, debentures or debenture stock of the company is prohibited;
- (d) “public company” means a company not being a private company within the meaning of clause *c*. R.S.O. 1937, c. 251, s. 1.

PART II

INCORPORATION, REINCORPORATION, AMALGAMATION

2.—(1) The Lieutenant-Governor may, by letters patent, grant a charter to any number of persons, not less than three, of twenty-one or more years of age, who petition therefor, constituting such persons and any others who have become subscribers to the memorandum of agreement hereinafter mentioned and persons who thereafter become shareholders

What corporations may be incorporated by letters patent.

or members in the corporation thereby created a corporation for any of the purposes to which the authority of the Legislature extends, except those of railway and incline railway and street railway companies, and corporations within the meaning of *The Loan and Trust Corporations Act*.

Rev. Stat.,
c. 214.

Incorporation of
private
company
with limited
objects.

(2) Notwithstanding anything in subsection 1, a private company may be incorporated under this Act with power to lend and invest money on mortgage of real estate or otherwise, and shall not by reason thereof be deemed a corporation within the meaning of *The Loan and Trust Corporations Act*, but the number of its shareholders shall be limited by its letters patent or supplementary letters patent to five, and no such company shall issue bonds, debentures or debenture stock, or borrow money by the hypothecation of its securities except from the shareholders of the company or receive money on deposit. R.S.O. 1937, c. 251, s. 2; 1950, c. 8, s. 1.

Powers of
Provincial
Secretary.

3. The Provincial Secretary may, under the seal of his office, have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant-Governor but not those conferred on the Lieutenant-Governor in Council. R.S.O. 1937, c. 251, s. 3.

Incorporation with
share
capital.

4.—(1) The applicants for the incorporation of a company may petition the Lieutenant-Governor for the grant of a charter.

Contents
of petition.

(2) The petition (Form 1) shall show,

- (a) the proposed name of the company;
- (b) the objects for which the company is to be incorporated;
- (c) the place within Ontario where the head office of the company is to be situate;
- (d) the amount of the capital of the company, the number of shares, and the amount of each share;
- (e) the name in full, the place of residence and the calling of each of the applicants;
- (f) the names of the applicants, not less than three, who are to be the provisional directors of the company.

Memorandum of
agreement.

(3) The petition shall be accompanied by a memorandum of agreement in duplicate (Form 2) signed by the petitioners.

(4) Each petitioner shall be a *bona fide* subscriber in his own right for the share or shares which by the memorandum of agreement he agrees to take. Petitioners to be *bona fide* subscribers for shares.

(5) The petition may ask to have embodied in the letters patent any provision which under this Act might be embodied in a by-law of the company. R.S.O. 1937, c. 251, s. 4. Prayer for insertion of special clauses.

5.—(1) The letters patent or any supplementary letters patent of any company may provide for the issue of any or all of the shares of the capital stock of such company without any nominal or par value. Issue of shares without nominal or par value.

(2) Each share of the capital stock without nominal or par value shall be equal to every other such share of the capital stock subject to the preferences, restrictions or other conditions attached to any class of shares. Equality of no par value shares.

(3) Every certificate of shares without nominal or par value shall have plainly written or printed upon its face the number of such shares which it represents and the number of such shares which the company is authorized to issue, and no such certificate shall express any nominal or par value of such shares. Particulars on certificate.

(4) In the absence of other provisions in that behalf in the letters patent, supplementary letters patent or by-laws of the company, the issue and allotment of shares without nominal or par value authorized by this section may be made from time to time for such consideration as may be fixed by the board of directors of the company, and in fixing the amount of such consideration, except in respect of shares without nominal or par value having a preference as to principal, the board may provide that a part thereof may be set aside as a distributable surplus. Price to be fixed by directors.

(5) Any and all shares issued as permitted by this section shall be deemed fully paid and non-assessable on receipt by the company of the consideration for the issue and allotment thereof, and the holder of such shares shall not be liable to the company or to its creditors in respect thereof. Holder not liable to creditors, etc.

(6) The amount of capital with which the company shall carry on business shall be not less than the aggregate amount of the par value of outstanding fully paid par value shares, if any, or of any less amount paid up on par value shares, together with the amount of the consideration received upon the issue and allotment of the shares without nominal or par value from time to time outstanding exclusive of such part of Minimum capital.

such consideration as may be set aside as distributable surplus in accordance with subsections 4 and 8.

Saving.

(7) Nothing in subsection 6 shall be deemed to affect the capital of companies incorporated under the provisions of Part II in respect of shares without nominal or par value issued before the 2nd day of April, 1931, where the letters patent of such companies with supplementary letters patent, if any, granted to such companies before or after the 2nd day of April, 1931, provide that the capital shall be at least equal to the sum of the aggregate par value of all issued shares having par value plus a sum in dollars in respect to every issued share without par value, plus such amounts as from time to time by by-law of the company may be transferred thereto.

Shares
issued
without
declaration.

(8) In the case of shares without nominal or par value issued without there having been made, on or before the issue and allotment thereof in accordance with this Act, a declaration that any specified proportion of the consideration to be received therefor shall be capital, the directors may at any time pass a by-law for either or both of the following purposes:

1. Declaring that a specified portion of the consideration received for any such shares shall be capital.
2. Approving the consideration received for and confirming the issue of any such shares which were issued for a consideration not fixed in accordance with this Act, and upon such by-law being sanctioned by at least two-thirds of the votes cast at a special general meeting of the shareholders of the company duly called for considering the by-law the Provincial Secretary, upon being satisfied of the expediency and *bona fide* character thereof, may grant supplementary letters patent confirming the by-law. R.S.O. 1937, c. 251, s. 5.

Incorporation without share capital.

6.—(1) The applicants for the incorporation of a corporation not having share capital may petition the Lieutenant-Governor for the grant of a charter.

Contents of petition.

(2) The petition (Form 3) shall show,

- (a) the proposed name of the corporation;
- (b) the objects for which the corporation is to be incorporated;
- (c) the place within Ontario where the head office of the corporation is to be situate;

- (d) the name in full, the place of residence and the calling of each of the applicants;
- (e) the names of the first directors of the corporation.

(3) The petition shall be accompanied by a memorandum of agreement in duplicate (Form 4) signed by the petitioners setting out such regulations as may be deemed expedient for, Memorandum of agreement.

- (a) the election of members, trustees, directors and officers;
- (b) the holding of meetings of members, trustees and directors;
- (c) the establishment of branches;
- (d) the payment of directors, trustees, officers and employees; and
- (e) the control and management of the affairs of the corporation.

(4) The memorandum shall be expressed in separate paragraphs numbered consecutively, and the petitioners may adopt all or any of the provisions of Form 4 or may substitute others therefor. Form of. R.S.O. 1937, c. 251, s. 6.

7. In so far as the letters patent and supplementary letters patent do not exclude or modify the regulations in Form 4, those regulations shall, so far as practicable, be the regulations of a corporation not having share capital in the same manner and to the same extent as if they were contained in the letters patent or supplementary letters patent. Effect of regulations in memorandum. R.S.O. 1937, c. 251, s. 7.

8. The Lieutenant-Governor on an application for letters patent or supplementary letters patent may give to the corporation a name different from its proposed or existing name, as the case may be, and may vary the objects or other provisions or terms stated in the petition or memorandum of agreement. Change of name or terms of application. R.S.O. 1937, c. 251, s. 8.

9. A corporation without share capital heretofore or hereafter incorporated, with the consent in writing of all its members, may by by-law provide for the creation of a capital divided into shares and for the allotment and payment of such shares and may fix and prescribe the rights and privileges of Creation of capital of corporation not already having share capital.

the shareholders; but no such by-law shall take effect until confirmed by letters patent or by supplementary letters patent. R.S.O. 1937, c. 251, s. 9.

By-law for supplementary letters to operate on co-operative basis.

10.—(1) The directors of a corporation heretofore or hereafter incorporated under Part II may pass a by-law authorizing an application to the Lieutenant-Governor for the issue of supplementary letters patent providing for the corporation to be operated on a co-operative basis as defined by Part XII and making the corporation subject to Part XII.

Confirmation of by-law by shareholders.

(2) The application shall not be made until the by-law has been confirmed by all the shareholders or members in writing or by a resolution unanimously passed at a meeting of the shareholders or members duly called for considering the by-law and at which all the shareholders or members are present or represented by proxy. R.S.O. 1937, c. 251, s. 10.

Amalgamation of corporations.

11.—(1) Any two or more corporations to which this Act applies having the same or similar objects within the scope of this Act, may, in the manner herein provided, amalgamate and may enter into all contracts and agreements necessary to such amalgamation.

Joint agreement between directors proposing to amalgamate, etc.

(2) The corporations proposing to amalgamate may enter into a joint agreement for the amalgamation prescribing the terms and conditions thereof, the mode of carrying the same into effect, and stating the name of the new corporation, the names, callings, and places of residence of the first directors thereof and how and when the subsequent directors are to be elected, with such details as may be necessary to perfect the amalgamation and to provide for the subsequent management and working of the new corporation, and in cases of companies the number of shares of the capital, the par value of each share, and the manner of converting the share capital of each of the companies into that of the new company.

Submission to shareholders or members of each corporation.

(3) The agreement shall be submitted to the shareholders or members of each of the corporations at a general meeting thereof called for the purpose of taking the agreement into consideration.

Consideration of agreement and certificate of adoption.

(4) At such meetings of the shareholders or members the agreement shall be considered, and if two-thirds of the votes of all the shareholders or members of each corporation are for the adoption of the agreement that fact shall be certified upon the agreement by the secretary of each corporation under the corporate seal thereof.

(5) Thereupon the several corporations by their joint petition may apply to the Lieutenant-Governor for letters patent confirming the agreement, and on and from the date of the letters patent the corporations shall be deemed and taken to be amalgamated and to form one corporation by the name in the letters patent provided, and the corporation so incorporated shall possess all the property, rights, privileges and franchises and be subject to all the liabilities, contracts, disabilities and duties of each corporation so amalgamated. R.S.O. 1937, c. 251, s. 11.

Petition for confirmation by letters patent.

12. A corporation incorporated for purposes or objects within the scope of this Act, whether under a special or general Act, and being at the time of its application a subsisting and valid corporation, may apply for letters patent under this Act, and the Lieutenant-Governor may grant letters patent incorporating the shareholders or members of the corporation as a corporation under this Act. R.S.O. 1937, c. 251, s. 12.

Reincorporation of corporation.

13. Where an existing corporation applies for the issue of letters patent under section 12, the Lieutenant-Governor may, by letters patent, limit the powers of the corporation or extend them to such other objects, within the scope of this Act, as the applicant desires, name the first directors of the new corporation and give to it the name of the old corporation or any other name. R.S.O. 1937, c. 251, s. 13.

Extension of powers on reincorporation.

14. All rights of creditors against the property, rights and assets of a corporation amalgamated or reincorporated under this Act, and all liens upon its property, rights and assets shall be unimpaired by such amalgamation, or reincorporation, and all debts, contracts, liabilities and duties of such corporation shall thenceforth attach to the new or reincorporated corporation and may be enforced against it to the same extent as if such debts, contracts, liabilities and duties had been incurred or contracted by it. R.S.O. 1937, c. 251, s. 14.

Rights of creditors preserved.

15.—(1) Where a corporation has ceased to carry on business except for the purpose of winding up its affairs and has no debts or obligations that have not been provided for or protected, the directors may pass by-laws for distributing the assets of the corporation or any part of them among the shareholders and in any case where the corporation has issued both preference and common shares, such by-laws may provide for distributing any part of the assets, in specie or otherwise, rateably among the holders of preference shares, and the remainder of the assets rateably among the holders of common shares.

Distribution of assets on ceasing to carry on business.

Conditions.

(2) The by-law shall not take effect unless or until it is confirmed by a two-thirds vote of the shareholders present in person or by proxy at a general meeting duly called for considering the by-law and by the Lieutenant-Governor in Council.

Confirmation
of by-law for
distribution.

(3) When so confirmed any such by-law shall be valid and binding upon all shareholders of the corporation. R.S.O. 1937, c. 251, s. 16.

Supplemen-
tary letters
patent for
certain
purposes.

16.—(1) The directors of a corporation may pass a by-law authorizing an application to the Lieutenant-Governor for the issue of supplementary letters patent providing for,

- (a) increasing or decreasing the capital;
- (b) redividing the capital of the corporation into shares of smaller or larger amount;
- (c) limiting the powers of the corporation or extending them to such objects within the scope of this Act as the corporation may desire;
- (d) limiting or increasing the amount which the corporation may borrow upon debentures or otherwise where such amount is specified in the letters patent or supplementary letters patent of the corporation;
- (e) varying any provision contained in the special Act or letters patent or supplementary letters patent;
- (f) any other matter or thing in respect of which provision might have been made had the corporation been incorporated under this Act;
- (g) changing all or any of its previously authorized shares with par value, issued or unissued, into the same or a different number of shares of any class or classes without par value;
- (h) changing all or any of its previously authorized shares without par value, issued or unissued, into the same or a different number of shares of any class or classes with par value;
- (i) classifying or re-classifying any shares, either with or without par value;
- (j) consolidating or subdividing any shares either with or without par value; R.S.O. 1937, c. 251, s. 17 (1).

(k) converting a private company into a public company;

(l) converting a public company into a private company.
1948, c. 13, s. 2 (1).

(2) The application shall not be made until the by-law Confirming by-law. has been confirmed, in the case of a company, by a vote of the shareholders present or represented by proxy at a general meeting duly called for considering the by-law, and holding not less than two-thirds of the issued capital stock represented at such meeting or, in the case of a corporation not having share capital, by a vote of two-thirds of the members so present or represented as the case may be, and in the case of the conversion of a public company into a private company the application shall not be made until the by-law has been confirmed by the consent in writing of all the shareholders. R.S.O. 1937, c. 251, s. 17 (2); 1948, c. 13, s. 2 (2).

(3) On a reduction of the capital of a company the liability Rights of creditors preserved. of shareholders to persons who at the time of such reduction are creditors shall remain as though the reduction had not been made. R.S.O. 1937, c. 251, s. 17 (3).

17. Before letters patent or supplementary letters patent Sufficiency of material to be established. are issued the applicants shall establish to the satisfaction of the Provincial Secretary the sufficiency of the petition, memorandum of agreement, by-laws, resolution and all documents filed on such application, and shall furnish such evidence of the *bona fides* of the application as he may deem necessary. R.S.O. 1937, c. 251, s. 18.

18. The Provincial Secretary, or any officer to whom the Proof of matters under this Act. application may be referred, may take evidence under oath. R.S.O. 1937, c. 251, s. 19.

19. The letters patent or supplementary letters patent Conditions may be imposed in letters patent. may impose any conditions with respect to the by-laws of a corporation or any amendments thereof, and in such event the corporation shall not carry on its undertaking, or any part thereof, nor shall the by-laws be of any force or validity until the conditions so imposed are complied with. R.S.O. 1937, c. 251, s. 20.

20. The letters patent or supplementary letters patent Providing for appointment of auditor. may authorize the Provincial Secretary whenever he sees fit to appoint an auditor to examine the books of the corporation or an inspector to inspect its undertaking and affairs, or to call a general meeting of its shareholders or members, upon such terms as may be therein set out. R.S.O. 1937, c. 251, s. 21.

Notice of
issuing
letters
patent.

21. Notice of the granting of letters patent or supplementary letters patent shall be given forthwith by the Provincial Secretary in *The Ontario Gazette*. R.S.O. 1937, c. 251, s. 22.

Commence-
ment of
existence.

22. A corporation shall be deemed to be existing from the date of the letters patent incorporating it. R.S.O. 1937, c. 251, s. 23.

Powers
incidental to
company.

23.—(1) A company shall possess as incidental and ancillary to the powers set out in the letters patent or supplementary letters patent power,

- (a) to carry on any other business, whether manufacturing or otherwise, capable of being conveniently carried on in connection with its business or calculated directly or indirectly to enhance the value of or render profitable any of the company's property or rights;
- (b) to acquire or undertake the whole or any part of the business, property and liabilities of any person or company carrying on any business which the company is authorized to carry on, or possessed of property suitable for the purposes of the company;
- (c) to apply for, purchase or otherwise acquire any patents, licences, concessions and the like, conferring any exclusive or non-exclusive, or limited right to use, or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the company, or the acquisition of which may seem calculated directly or indirectly to benefit the company, and to use, exercise, develop or grant licences in respect of, or otherwise turn to account the property, rights or information so acquired;
- (d) to enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise, with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction which the company is authorized to carry on or engage in or any business or transaction capable of being conducted so as directly or indirectly to benefit the company, and to lend money to, guarantee the contracts of, or otherwise assist any such person or company, and to take or other-

wise acquire shares and securities of any such company, and to sell, hold, reissue, with or without guarantee, or otherwise deal with the same;

- (e) to take, or otherwise acquire and hold, shares in any other company having objects altogether or in part similar to those of the company or carrying on any business capable of being conducted so as directly or indirectly to benefit the company;
- (f) to enter into any arrangements with any authorities, municipal, local or otherwise, that may seem conducive to the company's objects, or any of them, and obtain from any such authority any rights, privileges and concessions which the company may think is desirable to obtain, and carry out, exercise and comply with any such arrangements, rights, privileges and concessions; R.S.O. 1937, c. 251, s. 24 (1), cls. (a-f).
- (g) to establish and support or aid in the establishment and support of associates, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the company, or its predecessors in business, or the dependants or connections of such persons, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this clause, and subscribe or guarantee money for charitable or benevolent objects, or for any exhibition or for any public, general or useful object; R.S.O. 1937, c. 251, s. 24 (1), cl. (g); 1939, c. 47, s. 3 (1).
- (h) to promote any company or companies for the purpose of acquiring or taking over all or any of the property and liabilities of the company, or for any other purpose which may seem directly or indirectly calculated to benefit the company;
- (i) to purchase, take on lease or in exchange, hire or otherwise acquire any personal property and any rights or privileges which the company may think necessary or convenient for the purposes of its business and in particular any machinery, plant and stock in trade;
- (j) to construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches or sidings, bridges, reservoirs, watercourses,

wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences which may seem calculated directly or indirectly to advance the company's interests, and contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;

- (k) to lend money to customers and others having dealings with the company or with whom the company proposes to have dealings and guarantee the performance of contracts by any such person;
- (l) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, and other negotiable or transferable instruments;
- (m) to sell or dispose of the undertaking of the company or any part thereof as an entirety or substantially as an entirety for such consideration as the company may think fit, and in particular for shares, debentures or securities of any other company having objects altogether or in part similar to those of the company, if authorized so to do by the vote of the shareholders present or represented by proxy at a general meeting duly called for considering the matter, and holding not less than two-thirds of the issued capital stock represented at such meeting;
- (n) to adopt such means of making known the products of the company as may seem expedient, and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes, rewards and donations;
- (o) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the company;
- (p) to do all or any of the above things, and all things authorized by the letters patent or supplementary letters patent as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
- (q) to do all such other things as are incidental or conducive to the attainment of the above objects and

of the objects set out in the letters patent and supplementary letters patent;

- (r) to procure the company to be registered and recognized in any foreign country or province of Canada, and to designate persons therein according to the laws of such foreign country or province of Canada to represent the company and to accept service for and on behalf of the company of any process or suit;
- (s) to issue and allot fully paid shares of the capital stock of the company in payment or part payment of any real or personal property purchased or otherwise acquired by the company;
- (t) to distribute among the shareholders of the company in kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other manner deemed advisable, any property or assets of the company or any proceeds of the sale or disposal of any property of the company and in particular any shares, bonds, debentures, debenture stock or other securities of or in any other company belonging to the company, or of which it may have power to dispose; provided, however, that no such distribution shall effect a reduction of the capital of the company, unless made in accordance with this Act;
- (u) to pay out of its funds all costs and expenses of or incidental to the incorporation and organization of the company; R.S.O. 1937, c. 251, s. 24 (1), cls. (h-u).
- (v) to invest and deal with the moneys of the company not immediately required in such manner as may from time to time be determined. 1947 c. 15, s. 1.

(2) All or any of the powers set out in subsection 1 may be withheld by the letters patent or supplementary letters patent. R.S.O. 1937, c. 251, s. 24 (2). Powers
may be
withheld.

24.—(1) A corporation incorporated under this Act shall have power, Incidental
powers.

- (a) to construct, maintain and alter any buildings or works necessary or convenient for the purposes of the corporation;
- (b) to acquire by purchase, lease or other title, and to hold any real estate necessary for the carrying on of

its undertaking, and when no longer required to sell, alienate and convey the same.

Incorporation subject to trusts.

(2) The corporation shall, upon its incorporation, be invested with all the property and rights, real and personal theretofore held by or for it under any trust created with a view to its incorporation. R.S.O. 1937, c. 251, s. 25.

Restrictions as to holding real estate.

25.—(1) Unless other special statutory enactments apply, any land or interest therein at any time acquired by the corporation and not required for its actual use and occupation or for the purposes of its business, or not held by way of security, shall not be held by the corporation, or by any trustee on its behalf, for a longer period than seven years after the acquisition thereof, or after it has ceased to be required for its actual use and occupation or for the purposes of its business, but shall be absolutely sold and disposed of, so that the corporation shall no longer retain any interest therein unless by way of security.

Forfeiture of real estate.

(2) Any such land or interest therein not within the exceptions hereinbefore mentioned, held by the corporation for a longer period than seven years without being disposed of shall be forfeited to His Majesty for the use of Ontario.

Extension of time for holding.

(3) The Lieutenant-Governor in Council may extend such period from time to time, not exceeding in the whole twelve years, and no such forfeiture shall take effect or be enforced until the expiration of at least six months after notice in writing to the corporation of the intention of His Majesty to claim the same, and during such six months the corporation may dispose of the land or its interest therein.

Statement to be furnished to Provincial Secretary.

(4) The corporation shall give to the Provincial Secretary when required a full and correct statement of all lands or interests therein at the date of such statement held by or in trust for the corporation. R.S.O. 1937, c. 251, s. 26.

Defects of form not to invalidate letters patent, etc.

26. The provisions of this Act relating to matters preliminary to the issue of the letters patent or supplementary letters patent shall be deemed to be directory only, and no letters patent or supplementary letters patent, notice, order or other proceeding by or on behalf of the Lieutenant-Governor, Provincial Secretary or other Government or departmental officer under this Act shall be void or voidable on account of any irregularity, or otherwise, in respect of any matter preliminary to the issue of the letters patent or supplementary letters patent, notice, order or other proceeding or of any alterations in any petition or documents submitted

in order to comply with this Act or with the departmental practice thereunder. R.S.O. 1937, c. 251, s. 27.

27.—(1) If a corporation incorporated by letters patent does not go into actual *bona fide* operation within two years after incorporation, or for two consecutive years does not use its corporate powers, such powers, except so far as is necessary for the winding up of the corporation, shall be *ipso facto* forfeited. Forfeiture of charter for non-user.

(2) In any action or proceeding where such non-user is alleged proof of user shall lie upon the corporation. Proof of user.

(3) No such forfeiture shall affect prejudicially the rights of creditors as they exist at the date of the forfeiture. Rights of creditors not affected.

(4) The Lieutenant-Governor in Council may upon application revive any charter so forfeited, upon compliance with such conditions and upon payment of such fees as the Lieutenant-Governor in Council may designate. R.S.O. 1937, c. 251, s. 28. Charter may be revived.

28. Where a municipal corporation has passed or may hereafter pass a by-law to license, regulate and govern persons or proprietary clubs as provided by paragraph 1 of section 413 of *The Municipal Act*, no charter heretofore or hereafter granted whether by special Act or letters patent or otherwise for any of the purposes mentioned in that paragraph shall be construed as exempting the holders thereof from compliance with the provisions of such by-law or as affecting the discretionary power to refuse or grant a licence conferred by subsection 4 of section 263 of *The Municipal Act*. R.S.O. 1937, c. 251, s. 29. Clubs not to be exempted from municipal by-laws as to billiard tables, etc. Rev. Stat., c. 243.

29.—(1) The letters patent by which a corporation is incorporated and any supplementary letters patent amending or varying the same may, at any time, be declared to be forfeited and may be revoked and made void by the Lieutenant-Governor in Council, on sufficient cause being shown, upon such conditions and subject to such provisions as he may deem proper. R.S.O. 1937, c. 251, s. 30 (1). Revocation of charter.

(2) The letters patent may be cancelled by order of the Lieutenant-Governor in Council if it appears that the corporation is in default for a period of one year in filing the annual returns, and that notice of such default has been sent by registered mail to each director of record in the Department of the Provincial Secretary to the latest address stated therein, and that such notice has been inserted once in *The Ontario Gazette*. R.S.O. 1937, c. 251, s. 30 (2); 1948, c. 13, s. 3. Cancellation of charter on default in filing of returns.

Company with less than three members exercising corporate powers, shareholders personally liable.

30.—(1) If a corporation exercises its corporate powers when the number of its shareholders or members is less than three, for a period of more than six months after the number has been so reduced, every person who was a shareholder or member of the corporation during the time that it so exercised its corporate powers after such period of six months and is aware of the fact that it so exercised its corporate powers, shall be severally liable for the payment of the whole of the debts of the corporation contracted during such time, and may be sued for the debts without the joinder in the action of the corporation or of any other shareholder or member.

Shareholder by protest may relieve himself from liability.

(2) A shareholder or member who has become aware that the corporation is so exercising its corporate powers may serve a protest in writing on the corporation and may by registered letter notify the Provincial Secretary of such protest having been served and of the facts upon which it is based, and such shareholder or member may thereby and not otherwise, from the date of his protest and notification, exonerate himself from liability.

Revocation of charter if number of shareholders not brought up to three.

(3) If after notice from the Provincial Secretary the corporation refuses or neglects to bring the number of its shareholders or members up to three, such refusal or neglect may, upon the report of the Provincial Secretary, be regarded by the Lieutenant-Governor in Council as sufficient cause for the revocation of the charter of the corporation. R.S.O. 1937, c. 251, s. 31.

Surrender of charter.

31.—(1) The charter of a corporation incorporated by letters patent may be surrendered if the corporation proves to the satisfaction of the Lieutenant-Governor,

(a) that it has parted with its property and has divided its assets rateably among its shareholders or members, provided that where any of the shareholders or members are unknown or cannot be located, their distributive share may be disposed of in trust for such shareholders or members;

(b) that,

(i) it has no debts or obligations, or

(ii) its debts or obligations have been duly provided for or protected, or

(iii) its creditors or other persons having interests in its debts or obligations consent; and

- (c) that the corporation has given notice of application for leave to surrender its charter by publication once in *The Ontario Gazette* and once in a newspaper published at or as near as may be to the place where the corporation has its head office. 1947, c. 15, s. 2.

(2) The Lieutenant-Governor, upon a due compliance with the provisions of this section, may accept a surrender of the charter and direct its cancellation, and fix a date upon and from which the corporation shall be dissolved, and the corporation shall thereby and thereupon become dissolved accordingly. R.S.O. 1937, c. 251, s. 32 (2).

32. The corporate existence of a corporation incorporated otherwise than by letters patent may be terminated by order of the Lieutenant-Governor upon petition therefor by such corporation under like circumstances, in like manner and with like effect as a corporation incorporated by letters patent may surrender its charter. R.S.O. 1937, c. 251, s. 33.

33.—(1) Notwithstanding the dissolution of a company under section 31 or 32, the shareholders or members among whom its assets have been divided shall, to the amount received by them respectively upon such division, remain liable to the creditors of the company, and an action may be brought in any court of competent jurisdiction to enforce such liability, but the action shall be commenced within and not after one year from the date of dissolution of the company.

(2) When there are numerous shareholders or members the court may permit an action to be brought against one or more as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the master's office all such shareholders or members as may be found and the master shall determine the amount which each should contribute towards the plaintiff's claim and may direct payment of the sums so to be ascertained. R.S.O. 1937, c. 251, s. 34.

34. Any real or personal property of a company, which has not been disposed of at the date of dissolution, shall be forfeited to the Crown. 1947, c. 15, s. 3.

35. The Lieutenant-Governor in Council may make regulations with respect to,

- (a) the cases in which notice of application for letters patent or supplementary letters patent must be given;

- (b) the forms of letters patent, supplementary letters patent, notices and other instruments and documents relating to applications and other proceedings;
 - (c) the form and manner of the giving of any notice required by this Act;
 - (d) any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1937, c. 251, s. 35; 1946, c. 10, s. 1.

PART III

NAME OF CORPORATION

Use of word
"Limited".

36.—(1) The corporate name of every company with share capital shall have the word "Limited" as the last word thereof.

Idem.

(2) Where the company or any director, manager, officer or employee thereof uses the name of the company, the word "Limited" shall appear as the last word thereof.

Saving.

(3) Stamping, writing, printing, or otherwise marking on goods, wares and merchandise of the company, or upon packages containing the same shall not be deemed to be a use of the name within this section.

Abbrevia-
tion.

(4) Where the word "Company", "Club", "Association", or other equivalent word forms part of the name, the word "Limited" may be abbreviated to "Ltd." or "Ld."

Penalty for
using word
"Limited"
without
authority.

(5) If any person or persons trade or carry on business under any name or title of which "Limited" is the last word, that person or those persons, unless duly incorporated with limited liability, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10 for every day upon which that name or title has been used.

Not
applicable
to insurers.

(6) This section shall not apply to insurers incorporated under Part XVI. R.S.O. 1937, c. 251, s. 36.

"Private
company"
to be on seal
and on share
certificates.

37. Every private company shall have on its seal the words "private company" and upon every share certificate issued by the company there shall be distinctly written or printed the same words. R.S.O. 1937, c. 251, s. 37.

Penalty.

38. Every company and every director, manager, officer or other employee making default in complying with the provi-

sions of sections 36 and 37 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10 for a first offence and not more than \$100 for every subsequent similar offence. R.S.O. 1937, c. 251, ss. 38, 129.

39. The corporate name shall be one which is not objectionable upon any public ground and is not that of any known corporation or association incorporated or unincorporated, or of any partnership or of any individual, or any name under which any known business is being carried on, or so nearly resembling the same as to be calculated to deceive; but a subsisting corporation, association, partnership, individual or person may consent that its or his name, in whole or in part, be granted to a new corporation incorporated for the purpose of acquiring or promoting the objects of such business. R.S.O. 1937, c. 251, s. 39.

40.—(1) The name of a corporation which has not, for three consecutive years, made the annual summary prescribed by *The Companies Information Act* may be given in whole or in part to a new corporation, unless the defaulting corporation, on notice by the Provincial Secretary by registered letter addressed to the corporation or its president at the address shown by its last return, proves to the satisfaction of the Lieutenant-Governor that it is still a subsisting corporation.

(2) If, at the end of one month from the date of such notice, the Provincial Secretary has not been satisfied by the corporation or its president that the corporation is a subsisting corporation it shall be no longer entitled to the use of the corporate name.

(3) Where no annual summary has been filed by a corporation for three years immediately following its incorporation its name may be given to another corporation without notice and the first-mentioned corporation shall be deemed not to be subsisting. R.S.O. 1937, c. 251, s. 40.

41. Where it is made to appear to the satisfaction of the Lieutenant-Governor in Council that any corporation is incorporated under a name the same as or so similar to that of an existing corporation, company, partnership, association, individual or business as to be calculated to deceive, the Lieutenant-Governor in Council may change the name of the corporation. R.S.O. 1937, c. 251, s. 41.

42.—(1) Where a corporation desires to change its name, the Lieutenant-Governor, upon being satisfied that the corporation is solvent and that the change desired is not for

any improper purpose and is not otherwise objectionable, may change the name of the corporation.

In case proposed name is objectionable.

(2) Where the proposed name is considered objectionable the Lieutenant-Governor may change the name of the corporation to some unobjectionable name. R.S.O. 1937, c. 251, s. 42.

Notice of change.

43. Notice of the change of the name of a corporation shall be given by the Provincial Secretary by publication in *The Ontario Gazette*. R.S.O. 1937, c. 251, s. 43.

Change not to affect rights or obligations.

44. A change of the name of a corporation shall not affect its rights or obligations. R.S.O. 1937, c. 251, s. 44.

PART IV

MEETINGS OF COMPANY

Notice of meeting.

45. In default of other express provision in the special Act, the letters patent, or supplementary letters patent or by-laws of a company, notice of the time and place for holding general meetings of every company unless all the shareholders waive in writing such notice shall be given at least 10 days previously thereto by registered letter to each shareholder at his last known address, and by an advertisement in a newspaper published at or as near as may be to the place where the company has its head office and to the chief place of business of the company if these differ. R.S.O. 1937, c. 251, s. 45.

Annual meeting.

46.—(1) The annual meeting of the shareholders of the company shall be held at such time and place in each year as the special Act, letters patent, supplementary letters patent or by-laws of the company may provide, and in default of any such provision on the fourth Wednesday in January in every year. R.S.O. 1937, c. 251, s. 46 (1).

Report to be sent shareholders containing,

(2) The directors shall, at least seven days before the day on which the meeting is held, send by post to every shareholder a report containing,

balance sheet;

(a) a balance sheet made up to a date not more than four months before such annual meeting; provided however that a company which carries on its undertaking outside of Canada may by its by-laws extend this period to not more than six months;

abstract of income and expenditure;

(b) an abstract of income and expenditure for the financial period ending upon the date of such balance sheet;

- (c) the report of the auditor or auditors; auditor's report;
- (d) such further information respecting the company's further necessary information. financial position as the special Act, letters patent, supplementary letters patent or by-laws of the company may require,

and the directors shall lay such report before the meeting.
R.S.O. 1937, c. 251, s. 46 (2); 1943, c. 28, s. 7.

(3) Every balance sheet shall be drawn up so as to dis- Balance sheet to show assets and liabilities. tinguish at least the following classes of assets and liabilities:

1. Cash.
2. Debts owing to the company from its customers.
3. Debts owing to the company from its directors, officers and shareholders.
4. Stock in trade.
5. Expenditures made on account of future business.
6. Land, buildings and plant.
7. Goodwill, franchises, patents and copyrights, trade-marks, leases, contracts and licences.
8. Debts owing by the company secured by mortgage or other lien upon the property of the company.
9. Debts owing by the company but not secured.
10. Amount received on common shares.
11. Amount received on preferred shares.
12. Indirect and contingent liabilities.

(4) If the by-laws of the company so provide it shall not When report need not be sent. be necessary to send the report mentioned in subsection 2 to the shareholders.

(5) A copy of such report shall be furnished forthwith to Report furnished on application. any shareholder on written application. R.S.O. 1937, c. 251, s. 46 (3-5).

(6) Every company which neglects or refuses to furnish Penalty. such report for which application has been made as aforesaid

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. R.S.O. 1937, c. 251, ss. 46 (6), 129.

Special
general
meeting by
directors on
requisition
therefor.

47.—(1) Upon the receipt of a requisition in writing, signed by the holders of not less than one-tenth of the subscribed shares of the company, setting out the objects of the proposed meeting, the directors, or, if there is not a quorum in office, the remaining directors or director shall forthwith convene a special general meeting of the company for the transaction of the business mentioned in the requisition.

By share-
holders.

(2) If the meeting is not called and held within 21 days from the date upon which the requisition was left at the head office of the company any shareholders holding not less than one-tenth in value of the subscribed shares of the company, whether they signed the requisition or not, may themselves convene such special general meeting.

By
directors.

(3) The directors may at any time, of their own motion, call a special general meeting of the company for the transaction of any business.

Notice.

(4) Notice of any special general meeting shall state the business which is to be transacted at it. R.S.O. 1937, c. 251, s. 47.

Presiding
officer.

48. The president shall preside as chairman at every general meeting of the company, and if there is no president or vice-president, or if at any meeting neither of them is present within 15 minutes after the time appointed for holding the meeting, the shareholders present shall choose one of their number to be chairman. R.S.O. 1937, c. 251, s. 48.

Adjourn-
ment by
consent.

49. The chairman may, with the consent of the meeting and subject to such conditions as the meeting may decide, adjourn any meeting from time to time and from place to place. R.S.O. 1937, c. 251, s. 49.

Procedure
as to
resolution.

50.—(1) At any general meeting, unless a poll has been demanded, an entry in the minutes of the company to the effect that the chairman declared a resolution to be carried shall be *prima facie* evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

Taking vote
when poll is
demanded.

(2) If a poll is demanded it shall be taken in such manner as the by-laws prescribe, and if the by-laws make no provision therefor then as the chairman may direct.

(3) In the case of an equality of votes at any general meeting the chairman shall be entitled to a second or casting vote. R.S.O. 1937, c. 251, s. 50. ^{Casting vote.}

51. Subject to the special Act, letters patent, supplementary letters patent or by-laws, at all meetings of shareholders every shareholder shall be entitled to as many votes as he holds shares in the company, and may vote by proxy, but no shareholder in arrear in respect of any call shall be entitled to vote at any meeting. R.S.O. 1937, c. 251, s. 51. ^{Votes.}

52.—(1) The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor is a corporation, either under the common seal or under the hand of an officer or attorney so authorized, and shall cease to be valid after the expiration of one year from the date thereof. ^{Proxy.}

(2) No person shall act as a proxy unless he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy or has been appointed to act at that meeting as proxy for a corporation. ^{Qualification of proxy.}

(3) A proxy for an absent shareholder shall not have the right to vote on a show of hands. R.S.O. 1937, c. 251, s. 52 (1-3). ^{Not to vote on show of hands.}

(4) An instrument appointing a proxy may be according to Form 5 or such other form as may be prescribed by the by-laws of the company and shall not contain anything but the appointment of the proxy or a revocation of a former instrument appointing a proxy or restrictions, limitations or instructions as to the manner in which the shares covered by the instrument are to be voted or which may be necessary to comply with the laws of any jurisdiction in which the shares of the company are listed on a recognized stock exchange. 1943, c. 28, s. 8. ^{Form of instrument appointing proxy.}

(5) An instrument appointing a proxy may be revoked at any time. ^{Revocation of proxy.}

(6) The directors may by by-law prescribe the period of time immediately preceding any special or general meeting of the shareholders within which the instrument appointing the proxy shall be deposited with the company; provided that in no case shall the period of time exceed 72 hours immediately preceding the meeting for which such proxy is to be used or acted upon, and further provided that any period of time so fixed shall be specified in the notice calling the meeting. ^{Deposit of proxy.}

Power of
director to
act as proxy.

(7) A director of a company may be appointed and act as a proxy at any meeting of the company, notwithstanding that he is an officer of the company within the meaning of any special Act. R.S.O. 1937, c. 251, s. 52 (5-7).

Where
meetings
to be held.

53. Meetings of the shareholders, directors and executive committees shall be held at the place where the head office of the company is situate except when otherwise provided by the special Act, letters patent, supplementary letters patent or the by-laws of the company, but shall not be held out of Ontario unless when so authorized by the special Act, letters patent or supplementary letters patent. R.S.O. 1937, c. 251, s. 53.

PART V

SHARES, CALLS

Share
certificates.

54.—(1) Every shareholder shall, without payment, be entitled to a certificate signed by the proper officer in accordance with the company's by-laws in that behalf stating the number of shares held by him and the amount paid up thereon, but, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint shareholders shall be sufficient delivery to all.

Signing
certificates.

(2) The company may by by-law provide that the signatures of the officer or officers designated to sign certificates may be engraved, lithographed or otherwise mechanically reproduced upon certificates for shares, and in such event, subject to the provisions of such by-law, certificates so signed shall be deemed to have been manually signed and shall be as valid to all intents and purposes as if they had been manually signed.

Evidence
of title.

(3) The certificate shall be *prima facie* evidence of the title of the shareholder to the shares mentioned in it.

Shares
issued
in pounds
sterling or
francs or
marks.

(4) Where a company issues shares in pounds sterling, francs or marks, shares previously issued in Canadian currency may, at the option of the holder, be exchanged for shares in pounds sterling, francs or marks.

Fee for
certificate.

(5) Any company incorporated under Part XI may make a charge of 25 cents for the issuance of every certificate referred to in subsection 1.

Shares to
include share
warrants.

(6) Shares shall include share warrants, where the company is authorized to issue the same. R.S.O. 1937, c. 251, s. 54.

55. If a share certificate is defaced, lost or destroyed, it ^{Lost certificate.} may be renewed on payment of such fee, if any, not exceeding 25 cents and on such terms, if any, as to evidence and indemnity as the directors think fit. R.S.O. 1937, c. 251, s. 55.

56.—(1) The shares of the company shall be deemed ^{Shares personal estate.} personal estate and shall be transferable on the books of the company in such manner and subject to such conditions and restrictions as by this Act, the special Act, letters patent, supplementary letters patent or by-laws of the company may be prescribed.

(2) Subject to section 58, no by-law shall be passed which ^{Restrictions on transfer.} in any way restricts the right of a holder of paid-up shares to transfer the same, but nothing in this section shall prevent the regulation of the mode of transfer thereof. R.S.O. 1937, c. 251, s. 56.

57.—(1) No transfer of shares the whole amount whereof ^{When directors' consent required.} has not been paid up shall be made without the consent of the directors.

(2) Where any such transfer is made with the consent of ^{Their liability if they allow transfers to persons without means.} the directors to a person who is not apparently of sufficient means to fully pay up such shares, subject to subsection 3, the directors shall be liable jointly and severally to the creditors of the company in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been liable.

(3) If any director present when such transfer is allowed, ^{Relief from liability by entering protest.} forthwith, or if any director then absent, within 24 hours after he becomes aware of such transfer and is able to do so, enters his written protest against the same, and, within eight days thereafter, gives notice of his protest by registered letter to the Provincial Secretary, such director shall thereby and not otherwise exonerate himself from such liability.

(4) Where a share upon which a call is unpaid is transferred, ^{Liability where call remains unpaid.} with the consent of the directors, the transferee shall be liable for the call to the same extent and with the same liability to forfeiture of the shares, if the call remains unpaid, as if he had been the holder when the call was made, and the transferor shall also remain liable for the call until it has been paid. R.S.O. 1937, c. 251, s. 57.

58. Where the letters patent, supplementary letters patent ^{Refusal to register transfer of shareholder indebted to corporation.} or by-laws of a corporation confer that power on the directors, they may decline to register a transfer of shares belonging to

a shareholder who is indebted to the corporation. R.S.O. 1937, c. 251, s. 58.

Closing
transfer
books
pending
distribution
of dividend.

59. The directors, upon declaring a dividend upon shares, may direct that no entry of transfers shall be made in the books of the company for a period of two weeks immediately preceding the payment of such dividend, and payment thereof shall be made to the shareholders of record on the date of closing such books. R.S.O. 1937, c. 251, s. 59; 1948, c. 13, s. 4.

Transfer
valid only
after entry.

60. No transfer of shares, unless made by sale under execution or under the order or judgment of a competent court, shall, until entry thereof has been duly made, be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and, if absolute, as rendering the transferee and the transferor jointly and severally liable to the company and its creditors until entry thereof has been duly made in the books of the company. R.S.O. 1937, c. 251, s. 60.

Transferor
may be
notified.

61.—(1) The directors may, for the purpose of notifying the person registered therein as owner of such shares, refuse to allow the entry in any such books of a transfer of shares, and in that event shall forthwith give notice to the owner of the application for the entry of the transfer.

Owner may
lodge caveat.

(2) Such owner may lodge a caveat against the entry of the transfer and thereupon such transfer shall not be made for a period of 48 hours.

Transfer
may be
entered if
no order
served.

(3) If, within one week from the giving of such notice or the expiration of the period of 48 hours, whichever last expires, no order of a competent court enjoining the entry of such transfer has been served upon the company, the transfer may be entered.

Company
not to be
liable if
section
complied
with.

(4) Where a transfer is entered after the proceedings mentioned in this section, the company in respect of the shares so transferred shall be free from liability to a person whose rights are purported to be transferred, but without prejudice to any claim which the transferor may have against the transferee. R.S.O. 1937, c. 251, s. 61.

Deposit
of foreign
probate,
letters of
adminis-
tration, etc.,
with officer
of company.

Rev. Stat.,
c. 378.

62.—(1) Subject to *The Succession Duty Act*,

- (a) where a transmission of shares or other securities of a company takes place by virtue of any testamentary act or instrument, or in consequence of an intestacy; and

- (b) where the probate of the will or letters of administration or document testamentary, or other judicial or official instrument under which the title, whether beneficial or as trustee, or the administration or control of the personal estate of the deceased is claimed to vest, purports to be granted by any court or authority in Canada, or in the United Kingdom of Great Britain and Northern Ireland, or in any other of His Majesty's dominions, or in any of His Majesty's colonies or dependencies or in any foreign country,

the probate of the will or the letters of administration or the document testamentary or, in the case of a transmission by notarial will in the Province of Quebec, a copy thereof duly certified in accordance with the laws of the Province of Quebec, or the other judicial or official instrument, or an authenticated copy thereof or official extract therefrom under the seal of such court or other authority, without any proof of the authenticity of such seal or other proof whatever, shall be produced, and a true copy thereof, together with a declaration in writing showing the nature of the transmission, signed and executed by such one or more of the persons claiming by virtue thereof as the company may require, or, if any such person be any other company, signed and executed by an officer of such other company, shall be deposited with an officer of the company or other person authorized by the directors of the company to receive them. 1947, c. 15, s. 4.

(2) Such production and deposit shall be sufficient justification and authority to the directors for paying the amount or value of any dividend, coupon, bond, debenture or obligation or share, or transferring, or consenting to the transfer of any bond, debenture or obligation or share, in pursuance of, and in conformity to such probate, letters of administration or other such document aforesaid, but such payment, transfer or consent to transfer, shall not be made until the provisions of *The Succession Duty Act* have been complied with. Transmission of interest on death. R.S.O. Rev. Stat., c. 378. 1937, c. 251, s. 62 (2).

63.—(1) The directors may call in and demand from the shareholders the amount unpaid on shares by them subscribed or held, at such times and places and in such payments or instalments as this Act, the special Act, letters patent, supplementary letters patent or by-laws of the company require or allow, and interest shall accrue upon the amount of any unpaid call from the day appointed for payment of such call. Calling in instalments.

(2) The demand shall state that in the event of non-payment the shares in respect of which the call was made will be liable to be forfeited. Demand to state liability to forfeiture.

Forfeiture
of shares.

(3) If, after the demand, any call is not paid within the time and in the manner provided by the special Act, letters patent, supplementary letters patent or by-laws, the directors, by resolution to that effect reciting the facts and duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made, and the shares shall thereupon become the property of the company and may be disposed of as, by by-law or otherwise, the company may determine; but such forfeiture shall not relieve the shareholder of any liability to the company or to any creditor. R.S.O. 1937, c. 251, s. 63.

Interpre-
tation.

64.—(1) In this section, “arrangement” shall be construed as extending to a reorganization of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both of these methods. R.S.O. 1937, c. 251, s. 64.

Compromise
between
shareholders
and
company.

(2) Where a compromise or arrangement is proposed between a company and its shareholders or any class of them affecting the rights of shareholders or any class of them under the company’s letters patent or supplementary letters patent or by-laws, a judge of the Supreme Court may on application in a summary way of the company or of any shareholder order a meeting of the shareholders of the company or of any class of shareholders, as the case may be, to be summoned in such manner as the judge directs.

Sanction and
confirmation
of such
compromise.

(3) If the shareholders or class of shareholders, as the case may be, present in person or by proxy at the meeting, by three-fourths of the shares of each class represented agree to the compromise or arrangement either as proposed or as altered or modified at such meeting called for the purpose, the compromise or arrangement may be sanctioned by a judge as aforesaid, and if so sanctioned the compromise or arrangement and any reduction or increase of share capital and any provision for the allotment or disposition thereof by sale or otherwise as therein set forth, may be confirmed by supplementary letters patent, which shall be binding on the company, and the shareholders or class of shareholders, as the case may be.

Notice of
compromise
when there
are dissen-
tient votes.

(4) Where at a meeting called as hereinbefore provided dissentient votes are cast by shareholders of one or more classes affected, and where, notwithstanding such dissentient votes, the compromise or arrangement is agreed to by the holders of three-fourths of each class represented, it shall be necessary that the company notify each shareholder in such manner as may be prescribed by the judge of the time and

place when application will be made to the judge for the sanction of the compromise or arrangement.

Share Warrants

65. A company, if so authorized by its letters patent or supplementary letters patent and subject to the provisions thereof may, with respect to any fully paid-up shares, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the share or shares therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the share or shares included in the warrant hereafter termed a share warrant. R.S.O. 1937, c. 251, s. 65.

Share warrants.

66. A share warrant shall entitle the bearer thereof to the shares therein specified, and the shares may be transferred by delivery of the warrant. R.S.O. 1937, c. 251, s. 66.

Effect of share warrant.

67. The bearer of a share warrant shall, subject to the provisions and regulations respecting share warrants contained in the letters patent or supplementary letters patent, be entitled, on surrendering it for cancellation, to have his name entered on the books of the company as the holder of the shares specified in such share warrant, and the company shall be responsible for any loss incurred by any person by reason of the company entering on its books the name of the bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled. R.S.O. 1937, c. 251, s. 67.

Exchanging warrant for entry as shareholder.

68. The bearer of a share warrant may, if the provisions and regulations respecting share warrants so provide, be deemed to be a shareholder of the company either to the full extent or for any purposes defined by such regulations, except that he shall not be qualified in respect of the shares specified in the warrant for being a director of the company. R.S.O. 1937, c. 251, s. 68.

When bearer of warrant may be deemed a shareholder.

69. On the issue of a share warrant the company shall remove from its books the name of the shareholder then entered therein as holding such share or shares as if he had ceased to be a shareholder, and shall enter in such books,

When shareholder has share warrant issued, entry in books.

(a) the fact of the issue of the warrant;

(b) a statement of the shares included in the warrant; and

(c) the date of the issue of the warrant. R.S.O. 1937, c. 251, s. 69.

Entry on
surrender.

70. Until the warrant is surrendered, the particulars set out in section 69 shall be deemed to be the particulars required by this Act to be entered in the books of the company in respect of such share or shares, and on the surrender, the date of the surrender shall be entered as if it were the date at which a person ceased to be a shareholder. R.S.O. 1937, c. 251, s. 70.

Representa-
tion of shares
at general
meeting.

71. Unless the bearer of a share warrant is entitled to attend and vote at general meetings, the shares represented by such share warrant shall not be counted as part of the stock of the company for the purposes of a general meeting. R.S.O. 1937, c. 251, s. 71.

Trusts.

72.—(1) A company shall not be bound to see to the execution of any trust, whether express, implied or constructive to which any share is subject.

Sufficient
discharge.

(2) The receipt of the person in whose name the share stands on the books of the company shall be a sufficient discharge to the company for any payment made in respect of such share, whether or not the company had notice of such trust.

Application
of money
paid.

(3) The company shall not be bound to see to the application of the money paid upon such receipt. R.S.O. 1937, c. 251, s. 72.

Trustees,
etc.
mortgagor
may vote.

73.—(1) An executor, administrator, guardian, trustee or committee of a mentally incompetent person and where a corporation is such executor, administrator, guardian, trustee or committee of a testator, intestate, infant, *cestui que trust*, or mentally incompetent person, any officer or employee of such corporation or any shareholder of the company duly appointed a proxy for such corporation, shall represent the shares in his hands at all meetings of the company and may vote accordingly as a shareholder, and every person who mortgages or hypothecates his shares may nevertheless represent the shares at all such meetings, and may vote accordingly as a shareholder unless, in the instrument creating the mortgage or hypothecation, he has expressly empowered the holder of such mortgage or hypothecation to vote thereon, in which case only such holder or his proxy may vote in respect of such shares.

Joint
holders
of stock.

(2) If shares are held jointly by two or more persons any one of them present at a meeting may, in the absence of the

other or others, vote thereon, but if more than one of them are present, or represented by proxy, they shall vote together on the shares jointly held.

(3) Where a corporation is executor, administrator, guardian, trustee or committee of a testator, intestate, infant, *cestui que trust* or mentally incompetent person, such corporation may appoint any of its officers, or employees, or a shareholder of the company, as proxy to represent the shares at any such meeting and to vote accordingly as a shareholder. R.S.O. 1937, c. 251, s. 73. Corporation may vote as trustee, etc.

74.—(1) Every shareholder, until the whole amount of his shares has been paid up, shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon, but shall not be liable to an action therefor by any creditor before an execution against the company has been returned unsatisfied in whole or in part, and the amount due on such execution, but not beyond the amount so unpaid on his shares, shall be the amount recoverable against such shareholder. Liability of shareholders.

(2) A shareholder may plead by way of defence, in whole or in part, any set-off which he could set up against the company, except a claim for unpaid dividend, or a salary or allowance as president or director of the company. R.S.O. 1937, c. 251, s. 74. Set-off.

75. A shareholder shall not, as such, be answerable for any act, default or liability of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company beyond the amount unpaid on his shares. R.S.O. 1937, c. 251, s. 75. Shareholders not liable beyond unpaid amount.

76.—(1) No person holding shares as executor, administrator, guardian, committee of a mentally incompetent person or trustee, of or for any estate, trust or person named in the books of the company as being so represented by him shall be personally subject to any liability as a shareholder, but the estates and funds in his hands shall be liable in like manner and to the same extent as the testator, intestate, ward, mentally incompetent person or person interested therein would be, if living and competent to act as the holder of such shares. Trustees not personally liable.

(2) If the trust is for a living person not under disability such person shall also be liable as a shareholder. Liability of beneficiary.

(3) If the testator, intestate, ward, mentally incompetent person or person so represented is not named in the books of the company the executor, administrator, guardian, committee or trustee shall be personally liable in respect of such Where beneficiary, etc., not named trustee, etc., liable.

shares as if he held them in his own name as owner thereof. R.S.O. 1937, c. 251, s. 76.

Mortgagees
prior to
foreclosure.

77. No person holding shares as collateral security shall, prior to foreclosure, be personally subject to liability as a shareholder, but the person transferring such shares as collateral security shall, until foreclosed, be considered as holding the shares, and shall be liable as a shareholder in respect thereof. R.S.O. 1937, c. 251, s. 77.

PART VI

PREFERENCE AND DEBENTURE STOCK, DEBENTURES AND MORTGAGES

By-laws,

78.—(1) The directors of a corporation may make by-laws,

for borrow-
ing money;

(a) for borrowing money;

issuing
securities;

(b) for issuing bonds, debentures, debenture stock, both perpetual and terminable, or other securities;

disposing of
securities.

(c) for pledging or selling such bonds, debentures or debenture stock, or other securities for such sum and at such prices as may be deemed expedient or be necessary.

By-laws,

(2) The directors of a company may make by-laws,

for creating
preference
shares;

(a) for creating and issuing any part of the capital as preference shares;

conversion
of preference
shares.

(b) for the conversion of preference shares into common shares or debentures or debenture stock, debentures into debenture stock or preference shares, or any class of shares or securities into any other class.

General
power of
borrowing
not affected.

(3) Nothing in this section shall limit or restrict the power of a corporation to borrow money on bills of exchange, promissory notes, bills of lading, warehouse receipts or other securities of a commercial nature issued in the ordinary course of business. R.S.O. 1937, c. 251, s. 78.

Confirming
by-law.

79. No by-law for any of the purposes mentioned in section 78 shall take effect until it has been confirmed by a vote of shareholders present, or represented by proxy and holding not less than two-thirds of the issued capital stock represented at the meeting or by a vote of two-thirds of the

members so present or represented, as the case may be, at a general meeting duly called for considering the by-law. R.S.O. 1937, c. 251, s. 79.

80.—(1) A by-law for the creation and issue of preference shares or for the conversion of shares, debentures or debenture stock into preference shares may provide that the holders of such shares shall have such preference as regards dividends and repayment on dissolution or winding-up as may be therein set out, and the right to select a stated proportion of the board of directors, or such other control over the affairs of the company as may be considered expedient, or may limit the right of the holders thereof to specific dividends or control of the affairs of the company or otherwise, not contrary to law or to this Act, and may provide for the purchase or redemption of such shares by the company as therein set out, but any term or provision of such by-law, whereby the rights of holders of such shares are limited or restricted, shall be fully set out in the certificate of such shares and in the event of such limitations and restrictions not being so set out they shall not be deemed to qualify the rights of holders thereof.

By-law for issue of preference shares.

(2) No such by-law which has the effect of increasing or decreasing the capital of the company, or increasing the amount of the preference stock authorized by the special Act, letters patent, supplementary letters patent, or any prior by-law of the company, or otherwise varying any term or provision thereof, shall be valid or acted upon until confirmed by supplementary letters patent.

When confirmation by supplementary letters patent required.

(3) Subsection 2 shall not apply to any by-law which creates or attempts to create redeemable or convertible preference shares, but a copy of such by-law certified under the seal of the company shall be filed forthwith in the office of the Provincial Secretary. R.S.O. 1937, c. 251, s. 80.

Copy of by-law creating redeemable or convertible shares to be filed.

81. Unless preference shares, debenture stock, debentures or bonds are issued subject to redemption or conversion the same shall not be subject to redemption or conversion without the consent of the holders thereof. R.S.O. 1937, c. 251, s. 81.

Consent of holders to redemption.

82.—(1) The directors may charge, hypothecate, mortgage or pledge any or all of the real or personal property, including book debts and unpaid calls, rights, powers, undertaking and franchises of the corporation to secure any bonds, debentures, debenture stock, or other securities, or any liability of the corporation.

Mortgages to secure debentures, etc.

(2) A duplicate original of such charge, mortgage or other instrument of hypothecation or pledge made to secure such

Duplicate to be filed and registered.

bonds, debentures or debenture stock or other securities shall be filed forthwith in the office of the Provincial Secretary as well as registered under the provisions of any other Act in that behalf.

Exception. (3) Subsection 2 shall not apply to any mortgage filed with the Provincial Secretary under any other Act. R.S.O. 1937, c. 251, s. 82.

PART VII

DIRECTORS AND THEIR POWERS, ETC.

First
directors
and election
of others.

83. The persons named as provisional directors in the special Act or in the letters patent shall be the directors of the company until replaced by the same number of others duly elected in their stead by the shareholders in general meeting, which shall be held not later than six months after the coming into force of the special Act or the date of the letters patent, and they shall be eligible for election. R.S.O. 1937, c. 251, s. 83.

Board of
directors.

84. The affairs of the company shall be managed by a board of not less than three directors who shall be elected by the shareholders in general meeting. R.S.O. 1937, c. 251, s. 84.

Business
must be
transacted
by quorum.

85.—(1) Except as in this section provided no business of a company shall be transacted by its directors unless at a meeting of directors at which a quorum of the board is present.

Majority to
constitute
quorum.

(2) Unless otherwise provided by the letters patent or supplementary letters patent a majority of the directors shall be necessary to constitute a quorum.

Filling
vacancies
while there
is a quorum.

(3) So long as a quorum of directors remains in office vacancies in the board may be filled by such directors as remain in office.

Calling
meeting
when no
quorum.

(4) Whenever there is not a quorum of directors in office it shall be the duty of the remaining directors or director forthwith to call a meeting of the shareholders to fill the vacancies, and in default the meeting may be called by any shareholder.

Calling
meeting
when no
directors.

(5) If there are no directors remaining in office a meeting to elect directors may be called by any shareholder. R.S.O. 1937, c. 251, s. 85.

86.—(1) The shareholders of a company having more than six directors may, by a resolution passed by a vote of those present or represented by proxy and holding not less than two-thirds of the issued capital stock represented at a general meeting called for that purpose, authorize the directors to delegate any of their powers to an executive committee, consisting of not less than three, to be elected by the directors from their number. Executive committee.

(2) A committee so formed shall, in the exercise of the powers so delegated, conform to any regulation that may be imposed upon them by such resolution or by the directors. Committee subject to regulations.
R.S.O. 1937, c. 251, s. 86.

87.—(1) Subject to subsection 3, no person shall hold office as a director unless he is a shareholder of the company and where any director ceases to be a shareholder he shall thereupon cease to be a director. Qualification of directors.

(2) No person who is an undischarged bankrupt shall hold office as a director and where any director becomes a bankrupt he shall thereupon cease to be a director. Director not to be a bankrupt.

(3) When a corporation holds shares in trust as executor, administrator, guardian, trustee or committee of a testator, intestate, infant, *cestui que trust* or mentally incompetent person, any officer or officers of such corporation may be elected as a director or directors and when such corporation ceases to hold such shares in trust, any officer so elected shall thereupon cease to be a director. Corporation holding shares in trust as director.

(4) A director holding shares only in trust as executor, administrator, guardian, trustee or committee of a testator, intestate, infant, *cestui que trust* or mentally incompetent person, or a director elected under subsection 3, shall not be personally liable under section 98, but the estate or other beneficial owner of the shares held in trust by such director or by the corporation of which such director is an officer shall be subject to all the liabilities imposed upon directors by section 98. 1947, c. 15, s. 5. Liability of corporation directors and persons holding shares in trust.

88. A corporation operating a hospital within the meaning of *The Public Hospitals Act*, may, by by-law, provide that a person may, with his consent in writing, be elected a director of the corporation at a general meeting of the shareholders or members notwithstanding that such person is not a shareholder or member of the corporation. 1941, c. 13, s. 1. Directors of hospital corporations. Rev. Stat., c. 307.

89. In the absence of other provisions in that behalf, in the letters patent or supplementary letters patent or by-laws of the company, Election of directors.

- (a) the election of directors shall take place yearly, and all the directors then in office shall retire, but, if otherwise qualified, they shall be eligible for re-election;
- (b) every election of directors shall be by ballot;
- (c) the directors shall, from time to time, elect from among themselves a president and, if they see fit, a vice-president of the company, and may also appoint all other officers thereof. R.S.O. 1937, c. 251, s. 88.

Failure to elect directors, how remedied.

90. If an election of directors is not made, or does not take effect at the proper time, the company shall not thereby be dissolved, but the election may take place at any general meeting of the company duly called for that purpose, and the directors shall continue in office until their successors are duly elected. R.S.O. 1937, c. 251, s. 89.

Change by by-law of number or quorum of directors or of head office in Ontario.

91.—(1) A company may, by by-law, vary the number of its directors, but so that the number shall be not less than three, and may change the location of the head office in Ontario, and, if so authorized by the letters patent or supplementary letters patent, fix the quorum of the board.

Chairman of board of directors.

(2) A company may by by-law provide for the election of a chairman of the board of directors, and define his duties and may assign to the chairman of the board of directors any or all of the duties of the president or other officer of the company as prescribed by this Act, and in that case the by-law shall fix and prescribe the duties of the president.

Powers of chairman under by-law.

(3) When a by-law has been passed under subsection 2 for the appointment of a chairman of the board of directors, this Act so far as it affects the company passing the by-law shall be read as if the chairman of the board of directors had been named in the Act instead of the president, so far as the by-law transfers or assigns the duties of the president to the chairman of the board of directors.

By-law to be confirmed by shareholders.

(4) No such by-law shall take effect until confirmed by a vote of shareholders present or represented by proxy at a meeting duly called for considering the by-law and holding not less than two-thirds of the issued capital stock represented at the meeting.

Publication.

(5) A copy of the by-law certified under the seal of the company shall be forthwith filed in the office of the Provincial

Secretary and published in *The Ontario Gazette*, and, in case of the removal of the head office, twice in a newspaper published in the place where the head office was located and also twice in a newspaper published in the place to which the head office is to be removed or as near thereto as may be.

R.S.O. 1937, c. 251, s. 90.

92.—(1) The directors may pass by-laws, not contrary to By-laws, law or to the letters patent or supplementary letters patent, to regulate,

- (a) the allotment of shares, the making of calls thereon, shares; the payment thereof, the issue and registration of certificates of shares, the forfeiture of shares for non-payment, the disposal of forfeited shares and of the proceeds thereof, and the transfer of shares;
- (b) the declaration and payment of dividends; dividends;
- (c) the amount of the share qualification of the directors directors' services, etc.; and the remuneration of the directors and of the president and vice-president;
- (d) the time at which and place where the meetings of meetings; the company shall be held, the calling of meetings of the company, and the procedure in all things at such meetings and, except as provided by section 52, of the requirements as to proxies;
- (e) the conduct in all other particulars of the affairs of the company. miscel-laneous.

(2) Subject to subsection 3, every such by-law and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the company duly called for that purpose, shall have force only until the next annual meeting of the company, and in default of confirmation thereat shall, at and from that time, cease to have force, and in that case no new by-law to the same or the like effect or re-enactment thereof shall have any force until confirmed at a general meeting of the company. Confirmation of by-laws.

(3) The company may, either at a general meeting called for that purpose or at the annual meeting, repeal, amend, vary or otherwise deal with any by-law passed by the directors, but no act done or right acquired under any by-law shall be prejudicially affected by any such repeal, amendment, variation or other dealing. By-laws may be varied.

R.S.O. 1937, c. 251, s. 91.

Payments to president or directors.

93. No by-law for the payment of the president or of any director shall be valid or acted upon unless passed at a general meeting, or, if passed by the directors, until the same has been confirmed at a general meeting. R.S.O. 1937, c. 251, s. 92.

Directors not to vote on contracts in which they have a personal interest, etc.

94.—(1) No director shall at any directors' meeting vote in respect of any contract or arrangement made or proposed to be entered into with the company in which he is interested either as vendor, purchaser or otherwise.

No liability where interest disclosed, and refrains from voting.

(2) A director who may be in any way interested in any contract or arrangement proposed to be made with the company shall disclose the nature of his interest at the meeting of the directors at which such contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest, and if he discloses the nature of his interest and refrains from voting, he shall not be accountable to the company or any of its shareholders or creditors by reason of the fiduciary relationship existing for any profit realized by such contract or arrangement; but no director shall be deemed to be in any way interested in any contract or arrangement, nor shall he be disqualified from voting or be held liable to account to the company by reason of his holding shares in any other company with which a contract or arrangement is made or contemplated.

Exception.

(3) This section shall not apply to any contract by or on behalf of a company to give the directors or any of them security by way of indemnity. R.S.O. 1937, c. 251, s. 93.

Liability of directors declaring a dividend when company is insolvent, etc.

95.—(1) The directors shall not declare or pay any dividend or bonus when the company is insolvent, or any dividend or bonus the payment of which renders the company insolvent or diminishes the capital thereof; but if any director present when such dividend or bonus is declared, forthwith, or if any director then absent, within 24 hours after he has become aware thereof and able to do so, enters his written protest against the same, and, within eight days thereafter, gives notice of his protest by registered letter to the Provincial Secretary, such director shall thereby and not otherwise exonerate himself from liability.

Companies with wasting assets declaring or paying dividends.

(2) Nothing in this section shall prevent a mining company or a company whose assets are of a wasting character, or a company heretofore or hereafter incorporated under this Act whose principal object is the acquisition of the assets, or a substantial part of the assets, of another corporation, either from such corporation or from the assign of such corporation,

for the purpose of converting such assets into money and distributing the money of the company among its shareholders and the administration of such assets pending conversion and distribution thereof, from declaring or paying dividends out of its funds derived from the operations of the company, provided that in the case of a company incorporated for the object last mentioned such dividends shall be paid only in accordance with the priorities of shareholders as prescribed by the letters patent or supplementary letters patent of such company.

(3) The powers conferred by subsection 2 may be exercised notwithstanding that the value of the net assets of the company may be thereby reduced to less than the par value of the issued capital stock of the company if the payment of the dividends does not reduce the value of its remaining assets so that they will be insufficient to meet all the liabilities of the company exclusive of its nominal paid-up capital. How far capital may be impaired.

(4) A dividend may be paid by any such company distributing in specie or in kind assets of the company not exceeding in value the amount of the dividend. Dividends, how payable.

(5) The powers conferred by subsection 2 shall not be exercised by any such company unless under the authority of a by-law passed by the directors and confirmed at a general meeting duly called for the purpose of considering the by-law by a vote of the shareholders present or represented by proxy and holding not less than two-thirds of the issued capital stock represented at such meeting. Approval of shareholders.

(6) Where dividends have already been paid by such a company in any of the cases mentioned in subsection 2, the payment thereof shall be deemed valid if a by-law adopting and approving the same is passed by the directors and approved by vote of the shareholders in the manner mentioned in subsection 5. R.S.O. 1937, c. 251, s. 94. Validity of payments.

96. For the amount of any dividend which the directors may lawfully declare payable in money, they may declare a stock dividend and issue therefor shares of the company as fully paid or partly paid, or may credit the amount of such dividend on the shares of the company already issued but not fully paid, and the liability of the holders of such shares shall be reduced by the amount of such dividend. R.S.O. 1937, c. 251, s. 95. Stock dividends.

97. No loan shall be made by the company to any shareholder, and if such a loan is made all directors and other No loan by company to shareholders.

officers of the company making the loan and in any way assenting thereto shall be liable jointly and severally to the company for the amount thereof, and also to third parties to the extent of such loan with interest, for all debts of the company contracted from the time of the making of the loan to that of the repayment thereof. R.S.O. 1937, c. 251, s. 96.

Liability of
directors
for wages.

98.—(1) The directors of the company shall be liable jointly and severally to the labourers, servants and apprentices thereof for all debts not exceeding one year's wages due for services performed for the company while they are such directors respectively.

Idem.

(2) A director shall not be liable under subsection 1 unless he is sued for such debt while a director or within one year after he has ceased to be a director and,

(a) the company has been sued for the debt within one year after it has become due and execution has been returned unsatisfied in whole or in part; or

(b) the company has, within that period, gone into liquidation or has been ordered to be wound up and the claim for such debt has been duly filed and proved.

Liability for
amount
unsatisfied
on execution.

(3) If execution has so issued the amount recoverable against the director shall be the amount remaining unsatisfied on the execution.

On payment
director
entitled to
assignment
of judgment,
etc.

(4) If the claim for such debt has been proved in liquidation or winding-up proceedings, a director, upon payment of the debt, shall be entitled to any preference to which the creditor paid would have been entitled, and where a judgment has been recovered, he shall be entitled to an assignment of the judgment. R.S.O. 1937, c. 251, s. 97.

PART VIII

PROSPECTUS AND DIRECTORS' LIABILITY

When a
commission
may be paid.

99.—(1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such shares, if the payment of the commission and the

amount or rate of the commission paid or agreed to be paid are authorized by the letters patent or supplementary letters patent.

(2) Except as provided by subsection 1, no company shall apply any of its shares or capital, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such shares, whether the shares or capital is so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or is paid out of the nominal purchase money or contract price or otherwise.

Capital not to be applied in paying commissions except as authorized.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay. R.S.O. 1937, c. 251, s. 98.

Brokerage may be paid.

100.—(1) Where any advertisement, letter-head, account or document issued or published by any corporation or any of its officers, agents or employees purports to state the capital of the corporation, unless it is stated to be the authorized capital, then the capital actually and in good faith subscribed and no more shall be so stated. R.S.O. 1937, c. 251, s. 99 (1).

Capital to be correctly stated in advertisements, etc.

(2) Any such corporation, officer, agent or employee who causes to be inserted an advertisement or who publishes, issues or causes to be published or issued any advertisement, letter-head, account or document which states the capital, otherwise than as mentioned in subsection 1, or which contains any false statement as to the incorporation, control, supervision, management or financial standing of such corporation shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$200. R.S.O. 1937, c. 251, ss. 99 (2), 129.

Penalty.

PART IX

BOOKS, INSPECTION AND AUDITORS

101. The corporation shall cause the secretary, or some other officer specially charged with that duty, to keep a book or books wherein shall be kept recorded,

Record books to be kept, contents.

- (a) a copy of the letters patent and of any supplementary letters patent issued to the corporation and, if

incorporated by special Act, a copy of such Act, and the by-laws of the corporation duly authenticated;

- (b) the names, alphabetically arranged, of all persons who are and who have been shareholders or members of the corporation;
- (c) the post office address and calling of every such person while such shareholder or member;
- (d) the names, post office addresses and callings of all persons who are or have been directors of the corporation, with the date at which each person became or ceased to be a director,

and in the case of a corporation having share capital,

- (e) the number of shares held by each shareholder;
- (f) the amounts paid in and the amounts remaining unpaid on the shares of each shareholder;
- (g) the date and other particulars of all transfers of shares in their order. R.S.O. 1937, c. 251, s. 101.

Books to be kept at head office.

102.—(1) The books mentioned in sections 101 and 107 shall be kept at the head office of the corporation within Ontario, whether the company is permitted to hold its meetings out of Ontario or not. R.S.O. 1937, c. 257, s. 102 (1).

Penalty for removal.

(2) Any director, officer or employee of a corporation who removes or assists in removing such books from Ontario or who otherwise contravenes the provisions of this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$200. R.S.O. 1937, c. 251, ss. 102 (2), 129.

Exception.

(3) Upon necessity therefor being shown and adequate assurance given that such books may be inspected within Ontario by any person entitled thereto after application for inspection to the Provincial Secretary, the Lieutenant-Governor in Council may relieve any corporation permitted to hold its meetings out of Ontario from the provisions of this section upon such terms as he may see fit. R.S.O. 1937, c. 251, s. 102 (3).

Untrue entries.

103.—(1) No director, officer or employee of the corporation shall knowingly make or assist in making any untrue

entry in any of its books, or refuse or neglect to make any proper entry therein.

(2) Any person wilfully violating the provisions of this section shall be liable in damages for all loss or injury which any person interested may have sustained thereby. R.S.O. 1937, c. 251, s. 103. Penalty.

104.—(1) If the name of any person is, without sufficient cause, entered in or omitted from any such book, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a shareholder or member of the corporation, the person or shareholder or member aggrieved, or any shareholder or member of the corporation, or the corporation itself, may apply to the Supreme Court for an order that the book or books be rectified, and the court may either refuse such application or may make an order for the rectification of the book, and may direct the corporation to pay any damages the party aggrieved may have sustained. Powers of judge as to entries in, omissions from and rectification of books.

(2) The court may, in any proceeding under this section, decide any question relating to the title of any person who is a party to such proceeding to have his name entered in or omitted from such books, whether such question arises between two or more shareholders or alleged shareholders, or members, or between any shareholder or alleged shareholder or member and the corporation, and the court may in any such proceeding decide any question which it may be necessary or expedient to decide for the rectification of the books. Decision as to title.

(3) The court may direct an issue to be tried. Trial of issue.

(4) An appeal shall lie from the decision of the court as if the same had been given in an action. Appeal.

(5) This section shall not deprive any court of any jurisdiction it may otherwise have. Jurisdiction of courts not affected.

(6) The costs of any proceeding under this section shall be in the discretion of the court. R.S.O. 1937, c. 351, s. 104. Costs.

105.—(1) The books mentioned in section 101 shall, during reasonable business hours of every day, except holidays, be kept open for the inspection of shareholders, members and creditors of the corporation and their personal representatives or agents, at the head office or chief place of carrying on its undertaking, and every such shareholder, member, creditor, agent or representative, may make extracts therefrom. R.S.O. 1937, c. 251, s. 105 (1). Books to be open for inspection.

List of
share-
holders.

(2) No shareholder or creditor or his agent or representative shall make or procure to be made a list of all or any of the shareholders of a company unless he has filed with the company or its agent an affidavit of such shareholder or creditor (Form 6) that the list is required only for purposes connected with such company and will be used for such purposes only, and where the shareholder or creditor is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of such corporation.

Penalty for
unauthorized
use of list.

(3) Any person other than a company or its agent who uses a list of all or any of the shareholders of such company for the purpose of delivering or sending to all or any of such shareholders advertising or other printed matter relating to shares, bonds, debentures or other securities other than the shares, bonds, debentures or other securities of such company, or for purposes not connected with the company, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$1,000 and in default of payment to a term of imprisonment of not more than six months. 1946, c. 10, s. 2, *part, amended*.

Purposes
connected
with the
company
defined.

(4) Purposes connected with the company shall be deemed to include any effort to influence the voting of shareholders at a special or general meeting of the company or the acquisition or offering of shares to acquire control or to effect an amalgamation or re-organization, or any other purpose approved by the Provincial Secretary. 1947, c. 15, s. 7.

Penalty for
selling or
purchasing
list.

(5) Any person who offers for sale or sells or purchases or otherwise traffics in a list or copy of a list of all or any of the shareholders of any company shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$1,000 and in default of payment to a term of imprisonment of not more than six months. 1946, c. 10, s. 2, *part, amended*.

Liability
for refusal
to allow
inspection
of books.

(6) Any director or officer who refuses to permit any person entitled thereto to inspect such books, or make extracts therefrom, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. R.S.O. 1937, c. 251, ss. 105 (2), 129.

Books to be
prima facie
evidence.

106. Such books shall be *prima facie* evidence of all facts purporting to be therein stated in any action or proceeding against the corporation or against any shareholder or member. R.S.O. 1937, c. 251, s. 106.

107. The directors shall cause proper books of account to be kept containing full and true statements, Books of account, minute books.

(a) of the financial transactions of the corporation;

(b) of the assets of the corporation;

(c) of the sums of money received and expended by the corporation, and the matters in respect of which such receipt or expenditure took place; and

(d) of the credits and liabilities of the corporation,

and a book or books containing minutes of all the proceedings and votes of the corporation, or of the board of directors, respectively, verified by the signature of the president or other presiding officer of the corporation. R.S.O. 1937, c. 251, s. 107.

108. If any person in any return, report, certificate, balance sheet or other document required by or for the purposes of this Act wilfully makes a statement false in any material particular, he shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a term of not more than three months, and shall be liable to a penalty of not more than \$100 in lieu of or in addition to such imprisonment. R.S.O. 1937, c. 251, ss. 108, 129. False returns, etc.

109.—(1) Upon an application by the shareholders of a corporation with share capital, holding not less than one-fifth in value of the issued shares of the corporation, or one-fifth in number of the members of a corporation without share capital, the Supreme Court may appoint an inspector to investigate its affairs and management. The court may appoint an inspector to make investigation.

(2) Such inspector shall report thereon to the court, and the expense of the investigation shall, in the discretion of the court, be defrayed by the corporation or by the applicants, or partly by the corporation and partly by the applicants. Report on and expense of investigation.

(3) The court may require the applicants to give security to cover the probable cost of the investigation, and may make rules and prescribe the manner in which and the extent to which the investigation shall be conducted. Security for costs.

(4) A corporation may, by resolution passed at the annual meeting, or at a special general meeting called for that purpose, appoint an inspector to examine into the affairs of the corporation. Corporation may appoint for same purpose.

Powers and
duties of
inspector.

(5) The inspector so appointed shall have the same powers and perform the same duties as an inspector appointed by the Supreme Court, and he shall make his report in such manner and to such persons as the corporation by resolution directs.

Production
of books and
documents.

(6) All officers and agents of the corporation shall produce for the examination of any inspector appointed under this section all books and documents in their custody or power.

Examination
on oath.

(7) Any such inspector may examine upon oath the officers, agents and employees of the corporation in relation to its business. R.S.O. 1937, c. 251, s. 109 (1-7).

Penalty for
non-
production.

(8) If any officer or agent refuses to produce any such book or document, or if any person so examined refuses to answer any question relating to the affairs of the corporation, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20 for each offence. R.S.O. 1937, c. 251, ss. 109 (8), 129.

Annual
audit.

110. The accounts of a corporation shall be examined once at least in every year, and the correctness of the balance sheet shall be ascertained by an auditor or auditors. R.S.O. 1937, c. 251, s. 110.

First
auditors.

111. The first auditors of a corporation may be appointed by the directors before the first meeting of the shareholders or members, and shall hold office until the first general meeting. R.S.O. 1937, c. 251, s. 111.

Subsequent
auditors.

112. Thereafter the auditors shall be appointed by resolution at a general meeting of the corporation and shall hold office until the next annual meeting unless previously removed by a resolution of the shareholders or members in general meeting. R.S.O. 1937, c. 251, s. 112.

Auditors
may be
shareholders.

113. The auditors may be shareholders or members of the corporation, but no person shall be eligible as an auditor who is interested, otherwise than as a shareholder or member, in any transaction of the corporation, and no director or other officer of the corporation shall be eligible during his continuance in office. R.S.O. 1937, c. 251, s. 113.

In default
Provincial
Secretary
may appoint.

114. If an appointment of auditors is not made at an annual meeting, the Provincial Secretary, on the application of any shareholder or member of the corporation, may appoint an auditor for the current year and fix the remuneration, if any, to be paid to him by the corporation for his services. R.S.O. 1937, c. 251, s. 114.

115. The directors of a corporation may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act, and any auditor shall be eligible for reappointment. R.S.O. 1937, c. 251, s. 115. Directors may fill casual vacancy.

116. The remuneration of the auditors shall be fixed by the corporation in general meeting, except that the remuneration of any auditors appointed before the first general meeting or to fill any casual vacancy may be fixed by the directors. R.S.O. 1937, c. 251, s. 116. Remuneration of auditors.

117.—(1) Every auditor shall have the right of access at all times to the books, accounts and vouchers of the corporation, and may require from the directors and officers of the corporation such information and explanation as may be necessary for the performance of his duties. Rights and duties of auditors.

(2) The auditors shall sign a certificate at the foot of the balance sheet stating whether or not their requirements as auditors have been complied with, and shall make a report to the shareholders or members on the accounts examined by them, and on every balance sheet laid before the corporation in general meeting during their tenure of office, and in every such report shall state whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the corporation's affairs and as shown by its books. Certificate and report.

(3) Such report shall be read at the general meeting. R.S.O. 1937, c. 251, s. 117. Reading at general meeting.

PART X

MISCELLANEOUS

118. Every company shall make a return to the Provincial Secretary from time to time, as the same occur, of all changes among the directors, and shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20 for every contravention of this section. R.S.O. 1937, c. 251, ss. 118, 129. Return to Provincial Secretary of change of directors, etc.

119.—(1) The Lieutenant-Governor in Council may establish, alter and regulate the tariff of fees to be paid on applications, returns, filings and all transactions under this Act, and may prescribe the form of proceedings and record in respect thereof, and all other matters which he may deem requisite for carrying out the objects of this Act. Tariff of fees.

Fees may vary in amount.

(2) Such fees may be made to vary in amount, having regard to the nature of the corporation, amount of capital and otherwise, as may be deemed expedient.

Restriction.

(3) No step shall be taken towards the issue of any letters patent or supplementary letters patent or the filing of any document under this Act, until all fees therefor and all fees due for any other service have been duly paid. R.S.O. 1937, c. 251, s. 119.

No compliance with Act to file returns, etc., without payment of fees.

120. No tender or transmission of any return, by-law or other document shall be a due compliance with the provisions of this Act unless the prescribed fee for receiving and filing the same has been paid to and has been accepted by the Provincial Secretary. R.S.O. 1937, c. 251, s. 120.

Evidence of by-laws.

121. A copy of any by-law of a corporation under its seal and purporting to be signed by any officer of the corporation, or a certificate similarly authenticated, to the effect that a person is a shareholder or member of the corporation, and that dues or other sums payable are due and have not been paid, or that a call or assessment which has been made, is due and has not been paid, shall be received in all courts as *prima facie* evidence of the by-law or of the statements contained in such certificate. R.S.O. 1937, c. 251, s. 121.

Authentication of documents, etc.

122. A document or proceeding requiring authentication by a corporation may be signed by any director, manager or other authorized officer of the corporation, and need not be under its seal. R.S.O. 1937, c. 251, s. 122.

Service of notices.

123. A notice or demand to be served or made by a corporation upon a shareholder or member may be served or made either personally or by registered post, addressed to the shareholder or member at his place of abode as it last appeared on the books of the corporation. R.S.O. 1937, c. 251, s. 123.

Time of service.

124. A notice or other document served by post by a corporation on a shareholder or member shall be deemed to be served at the time when it would be delivered in the ordinary course of post. R.S.O. 1937, c. 251, s. 124.

Sanctioning by-laws by written consent of all shareholders.

125. Any by-law by this Act requiring confirmation by the shareholders or members of the corporation may in lieu of confirmation at a general meeting be confirmed by the consent in writing of all the shareholders or members entitled to vote at such meeting. R.S.O. 1937, c. 251, s. 125; 1947, c. 15, s. 8.

126. Proof of any matter which may be necessary to be made under this Act may be made by statutory declaration, affidavit, or deposition before the Provincial Secretary, or any officer to whom the matter may be referred by him, or before any person authorized to take affidavits. R.S.O. 1937, c. 251, s. 126. Proof of matters under this Act.

127. A corporation may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney to execute on its behalf deeds to which it is a party in any capacity in any place situate within or without Ontario, and every deed signed by such attorney on behalf of the corporation and under his seal shall bind the corporation and have the same effect as if it were under the common seal of the corporation. R.S.O. 1937, c. 251, s. 127. Power of attorney by corporation.

128.—(1) A corporation may have for use in any territory, district or place not situate in Ontario an official seal, which shall be a facsimile of the common seal of the corporation, with the addition on its face of the name of every territory, district or place where it is to be used. Power of corporation to have official seal for use abroad.

(2) A corporation having such an official seal may by writing under its common seal, authorize any person appointed for the purpose in any territory, district or place not situate in Ontario, to affix the seal to any deed or other document to which the corporation is party in any capacity in that territory, district or place. Authority to agent to affix seal.

(3) The authority of any such agent shall, as between the corporation and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is therein mentioned, then until notice of the revocation or termination of the agent's authority has been given to the person dealing with him. Duration of agent's authority.

(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing the seal. Certifying date and period of sealing.

(5) A deed or other document to which an official seal is duly affixed shall bind the corporation as if it had been sealed with the common seal of the corporation. R.S.O. 1937, c. 251, s. 128. Official seal to have same effect as common seal.

129. A company or corporation which insures property with or insures the property of other persons, firms, companies Reciprocal insurance.

or corporations, where such insurance is reciprocal and for protection only and not for profit, shall not be deemed to be an insurer or an insurance corporation within the meaning of this Act. R.S.O. 1937, c. 251, s. 130.

Purchase of
shares for
benefit of
employees.

130.—(1) A company may provide, in accordance with any scheme for the time being in force, money for the purchase by trustees of fully paid shares in the company to be held by or for the benefit of employees of the company, including any director holding a salaried employment or office in the company.

Loans to
employees
to purchase
shares.

(2) A company may make loans to persons *bona fide* in the employment of the company with a view to enabling those persons to purchase fully paid shares in the company to be held by themselves by way of beneficial ownership. R.S.O. 1937, c. 251, s. 131.

PART XI

MINING COMPANIES

Issuing
shares at
a discount.

131. A mining company incorporated before the 1st day of July, 1907, or thereafter incorporated under this Act or any predecessor of this Act and made by the letters patent subject to the provisions of this Part, may issue its shares at a discount or at any other rate in the manner hereinafter prescribed. R.S.O. 1937, c. 251, s. 132.

Shareholders
not
personally
liable for
calls.

132. No shareholder of such a company holding shares, issued as herein provided, shall be personally liable for non-payment of any calls made upon his shares beyond the amount agreed to be paid therefor. R.S.O. 1937, c. 251, s. 133.

By-law
authorizing
issue of
shares at a
discount.

133. No shares shall be issued at a discount unless authorized by a by-law of the company fixing and declaring the rate and any other terms and conditions of the issue, confirmed at a general meeting of the shareholders duly called for considering the by-law. R.S.O. 1937, c. 251, s. 134.

Verified
copy of
by-law to be
transmitted
to Provincial
Secretary.

134.—(1) A copy of such by-law shall be transmitted by registered post to the Provincial Secretary within twenty-four hours after the by-law has been confirmed, or be filed in his office within five days, and such copy shall be verified as a true copy by the joint affidavit of the president and secretary, and if there are no such officers, or they, or either of them, are, or is, at the proper time unable to make the affidavit, by the affidavit of the president or secretary and one of the directors or of two of the directors, as the case may require, and if the

president or secretary does not make or join in the affidavit the reason therefor shall be stated in the substituted affidavit. R.S.O. 1937, c. 251, s. 135.

(2) The transmission or filing of a copy of the by-law shall be deemed to be and always to have been directory only and not a condition precedent to the validity of the by-law. 1948, c. 13, s. 5, *part*. Effect of filing.

(3) If a company fails to comply with subsection 1 it shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100, and every director and officer of the company who authorizes or permits such failure shall be guilty of an offence and on summary conviction shall be liable to a like penalty. 1948, c. 13, s. 5, *part*. Penalty.

135. Every such company shall have written or printed immediately after or under its name, wherever such name is used by the company or by any director, officer, servant or employee thereof, and shall have engraved upon its seal the words "NO PERSONAL LIABILITY", and upon every share certificate issued by the company, distinctly written or printed in red ink, where such share certificates are issued in respect of shares subject to call, the words "SUBJECT TO CALL", or, if in respect to shares not subject to call, the words "NOT SUBJECT TO CALL", according to the fact. R.S.O. 1937, c. 251, s. 136. What notice to appear on documents issued by company.

136.—(1) In the event of any call on shares of such a company remaining unpaid by the holder thereof for a period of 60 days after notice and demand of payment, such shares may be declared to be in default, and the secretary of the company may advertise such shares for sale at public auction to the highest bidder for cash by giving notice of the sale in a newspaper published at the place where the principal office of the company is situate, or if no newspaper is published there, then in a newspaper published at the nearest place to such office, once a week for four successive weeks. Sale of shares on non-payment of calls.

(2) The notice shall contain the number of the share certificates in respect of such shares and the number of shares, the amount of the call or calls due and unpaid and the time and place of sale. Contents of notice.

(3) In addition to the publication of the notice, it shall be personally served upon such shareholder or sent to him by registered post addressed to him at his last known place of abode. Service and publication.

Sale in
default of
payment.

(4) If the holder of such shares fails to pay the amount due thereon, with interest and the cost of advertising, before the time fixed for the sale, the secretary shall proceed to sell the shares, or such portion thereof as shall suffice to pay such calls, together with interest and the cost of advertising and of the sale.

Surplus of
proceeds.

(5) If the price of the shares so sold exceeds the amount due with interest and costs, the excess shall be paid to the defaulting shareholder on demand.

Action for
sale of shares
on non-pay-
ment of calls.

(6) In lieu of proceeding to sell under subsections 1 to 5, the company may maintain an action for the sale of the shares in the Supreme Court, and process in the action may be served upon a shareholder resident out of the jurisdiction in the same manner and subject to the same condition as process is permitted to be served out of the jurisdiction in cases provided for by the rules of court.

Action to
determine
right to sell.

(7) Where there is any question raised as to the validity of a call or as to the right to sell, an action may be brought in the Supreme Court for the purpose of determining the validity of the call and the right to sell, and process in the action may be served on a shareholder resident out of the jurisdiction as provided in subsection 6. R.S.O. 1937, c. 251, s. 137.

Appointment
of substitutes
by absent
directors.

137.—(1) A director absent from and resident outside of Canada, if authorized by the by-laws of the corporation, may appoint and authorize any shareholder holding the number of shares fixed as the qualification of a director to attend and vote, as fully and effectually as if such director were personally present, at any meeting of directors held within Ontario, and to accept any notice of such meeting.

Instrument
of authority.

(2) Such authority shall be by instrument in writing in such form as the by-laws of the corporation prescribe and its execution shall be verified by affidavit of a subscribing witness.

Acts of
substitute
to be
binding.

(3) All acts done under such authority shall be binding in all respects and to the same extent as if such director granting the authority had done such acts.

Duration of
authority of
substitute.

(4) No authority shall be made for a period exceeding one year, but, if and as provided by the laws of the corporation, any such authority may, from time to time, be renewed, and the renewal shall be in writing and so verified.

Authority
to be filed
with
secretary.

(5) Such authority and every renewal thereof so verified shall be filed forthwith with the secretary of the corporation, and a duplicate original so verified, or a notarial copy thereof,

shall be filed forthwith in the office of the Provincial Secretary. R.S.O. 1937, c. 251, s. 138.

138.—(1) A company which acts in contravention of any ^{Penalty.} provision of this Part and every director, manager or officer thereof shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$200. R.S.O. 1937, c. 251, ss. 139 (1), 129.

(2) A director, manager or officer who proves that he was ^{Relief from} not a party or privy to the act, and that when he became ^{penalty.} aware of it he forthwith gave notice thereof to the Provincial Secretary, shall not be liable to the penalty imposed by this section. R.S.O. 1937, c. 251, s. 139 (2).

PART XII

CO-OPERATIVE CORPORATIONS

139.—(1) All corporations heretofore or hereafter made ^{Application} subject to Part XII of *The Companies Act* by the letters ^{of Part.} patent or supplementary letters patent shall be subject to this Part.

(2) Except where inconsistent with the provisions of this ^{Application} Part, the other provisions of this Act shall apply to a corpora- ^{of Act.} tion which is subject to this Part. 1949, c. 14, s. 1, *part.*

140. In this Part, except in subsections 3 and 5 of section ^{Interpre-} 141, “corporation” and “company” mean a corporation and ^{tation.} company respectively which is subject to this Part. 1949, c. 14, s. 1, *part.*

141.—(1) The corporate name of every corporation ^{Corporate} shall include the word “co-operative” as part thereof. ^{name.}

(2) Where a corporation, or any director, manager, officer, ^{Abbrevia-} employee, shareholder or member uses the name of the ^{tion.} corporation the word “co-operative” may be abbreviated to “co-op”.

(3) Any person, partnership, organization, society, asso- ^{Offences.} ciation, company or corporation, either unincorporated or incorporated, not being a corporation subject to this Part, using in Ontario a name which includes the word “co-operative” or any abbreviation or derivation thereof shall be guilty of an offence, and any person using such name on behalf of such person, partnership, organization, society,

association, company or corporation shall also be guilty of an offence.

Penalty. (4) Every person guilty of an offence under subsection 3 shall, on summary conviction be liable to a penalty of not more than \$100, and in default of payment to imprisonment for a term of not more than three months.

Exceptions. (5) Subsection 3 shall not apply to a corporation incorporated by or under the authority of the Parliament of Canada, to a corporation licensed under *The Extra-provincial Corporations Act* or to a corporation heretofore incorporated under the laws of Ontario. R.S.O. 1937, c. 251, s. 129; 1949, c. 14, s. 1, *part*.

Rev. Stat.,
c. 124.

Share
capital.

142.—(1) The share capital of a company incorporated after the 31st day of May, 1949, shall consist of one class of shares with a nominal or par value of \$5 or any multiple of \$5 not exceeding \$100, to be designated as co-operative or co-op shares.

Share
certificates.

(2) Every share certificate issued after the 31st day of May, 1949, shall,

- (a) bear upon its face the name of the company, the words "incorporated as a co-operative company and subject to Part XII of *The Companies Act* of Ontario", and a statement of the authorized capital;
- (b) state the number of shares represented thereby;
- (c) state that shares are not transferable without the authorization of the directors;
- (d) set forth the provisions of section 151;
- (e) state that the dividend, if any, to which the holder of a share may become entitled shall not exceed eight per cent per annum on the amount paid up thereon; and
- (f) state that the company may by by-law limit the amount to be distributed for each share on the dissolution of the company to the amount paid up on such share together with declared and unpaid dividends. 1949, c. 14, s. 1, *part*.

Member
loans.

143.—(1) The capital of corporations without share capital may be in the form of loans from members, called member loans, and such loans may be in such amounts, payable on demand or at such times and either without interest or with interest at a rate not exceeding six per cent per annum, as the by-laws may provide.

(2) A corporation may borrow money from its shareholders or members in such amounts payable on demand or at such times and either without interest or with interest at a rate not exceeding six per cent per annum, as the by-laws may provide. 1949, c. 14, s. 1, *part*. Borrowing from members or shareholders.

144. Where a member of a corporation without share capital dies or does not transact any business with the corporation for a period of two years, the directors may terminate the membership, and upon such termination the corporation shall pay any money owing to the member. 1949, c. 14, s. 1, *part*. Termination of membership.

145.—(1) No share of a company shall be transferred unless authorized by the board of directors. Transfer of shares.

(2) No membership in a corporation without share capital shall be transferred unless authorized by the board of directors. 1949, c. 14, s. 1, *part*. Memberships.

146.—(1) No individual member or shareholder of a corporation shall vote by proxy. Voting.

(2) No individual member or shareholder of a corporation shall have more than one vote. Idem.

(3) A corporate member or shareholder may appoint, under its corporate seal, one of its officers or directors to attend and vote on its behalf at meetings of members or shareholders and such officer or director shall have only one vote. 1949, c. 14, s. 1, *part*. Voting by corporate members or shareholders.

147. No person shall hold office as a director of a corporation unless he is a member or shareholder thereof or a director or officer of a corporate member or shareholder thereof. 1949, c. 14, s. 1, *part*. Qualification of a director.

148. A corporation may by by-law provide that, before any distribution of surplus arising from the business of the corporation in each fiscal year, the corporation may, Reserve fund and dividends.

(a) set aside reserve funds;

(b) provide for the payment of dividends on the share capital at a rate not to exceed eight per cent per annum on the amount paid up thereon. 1949, c. 14, s. 1, *part*.

149.—(1) Subject to section 148, the surplus arising from the business of the corporation in each fiscal year shall be Distribution of net surplus.

allocated, credited or paid to the members or shareholders in proportion to the business done by each member or shareholder with or through the corporation, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from or on behalf of or to the member or shareholder, whether as principal or as agent of the member or shareholder or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof.

Idem.

(2) The corporation may by by-law provide that part of the surplus may be allocated, credited or paid to non-members or non-shareholders at the same or at lesser rates than to members or shareholders.

Patronage return.

(3) The amount which is allocated, credited or paid to members, shareholders, non-members or non-shareholders in each fiscal year shall be known as the patronage return.

Limitation of patronage return.

(4) The corporation may by by-law provide that where the value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from or on behalf of or to any member, shareholder, non-member or non-shareholder in any year does not exceed \$50, or such lesser amount as may be specified in the by-law, no patronage return shall be allocated, credited or paid to such member, shareholder, non-member or non-shareholder. 1949, c. 14, s. 1, *part*.

Investment of patronage return.

150.—(1) A company may by by-law provide that in each fiscal year the whole, or such part as the directors may determine, of the patronage return of each shareholder shall be applied to the purchase for the shareholder of a stated number of unissued shares of the company or a stated number of issued shares of the company, if obtainable.

Notice.

(2) Where a company has enacted a by-law under subsection 1, and the whole or part of the patronage return of a shareholder is required to be invested in issued shares, the company shall mail a written notice to such shareholder stating the number of shares to be purchased by him.

Purchase of shares on behalf of shareholder required to purchase.

(3) Unless within 30 days from the date of mailing of the notice referred to in subsection 2, the shareholder required to purchase issued shares has presented for transfer to himself the number of shares which he is required to purchase, the company may on behalf of such shareholder,

(a) purchase the required number of shares from shareholders who are willing to sell shares;

- (b) pay out of the patronage return of such shareholder the purchase price;
- (c) transfer such shares to the shareholder; and
- (d) issue and forward to such shareholder a certificate representing such shares.

(4) A corporation may enact by-laws requiring its shareholders or members to lend to it the whole, or such part as the directors may determine, of the patronage returns to which they may become entitled in each fiscal year, upon such terms and at such rate of interest not exceeding six per cent per annum as the by-laws may provide. Compulsory borrowing.

(5) No shareholder shall be required under this section to purchase issued or unissued shares at a price in excess of the par value thereof, or issued shares when no such shares are available for purchase. Idem.

(6) When the corporation is insolvent, no member or shareholder shall be required under this section to loan his patronage return, and no shareholder shall be required to purchase shares of the corporation. Idem.

(7) This section shall not prevent a member or shareholder from receiving so much of his patronage return as has not been appropriated to loans to the corporation or to the purchase of shares of the corporation in accordance with such by-laws. 1949, c. 14, s. 1, *part*. Idem.

151.—(1) Subject to subsections 2 and 3, a company, Purchase of shares by company.

- (a) with the consent of a shareholder, may purchase for redemption all or part of the shares held by such shareholder upon payment of such an amount, not exceeding the par value of the shares, as may be agreed upon; and
- (b) whenever a corporate shareholder is about to be dissolved, or a shareholder has failed for a period of two years to transact any business with the company, may purchase for redemption the shares of such shareholder, or require the transfer of such shares to another person, at the book value or par value, whichever is less.

(2) No company, Prohibition re purchase for redemption.

- (a) shall use for the purchase of shares for redemption in any fiscal year, an amount in excess of 50 per cent of the accumulated reserve funds;

- (b) shall purchase for redemption in any fiscal year more than 10 per cent of the shares outstanding at the beginning of the year;
- (c) shall purchase shares for redemption when the company is insolvent or so as to render the company insolvent or so as to reduce the number of shareholders to less than 10.

Re-issue prohibited.

(3) A share purchased for redemption by a company shall not be re-issued.

Where certificates of redeemed shares not surrendered.

(4) Where shares are subject to purchase for redemption, and the company gives to the shareholder written notice of purchase in which the shareholder is requested to surrender the share certificates, if any, for cancellation, and the shareholder fails to comply within the time specified, not being less than 30 days after the giving of such notice, the company may pay the purchase price into a chartered bank to the credit of the shareholder and cancel the shares upon its books. 1949, c. 14, s. 1, *part*.

Distribution of assets.

152.—(1) On any distribution of the assets of a corporation without share capital, member loans and patronage returns which are loaned to the corporation shall rank after the ordinary debts.

Distribution of assets upon dissolution.

(2) A corporation may enact by-laws providing that upon the dissolution of the corporation and after the payment of all debts and liabilities, including any declared and unpaid dividends, and the amount paid up on outstanding shares, if any, the remaining assets of the corporation or part thereof may be distributed or disposed of as follows:

- (a) equally among the members or shareholders irrespective of the number of shares held by a shareholder;
- (b) among the members or shareholders at the time of dissolution on the basis of patronage returns accrued to such members or shareholders during the five fiscal years immediately preceding the dissolution or since the date of incorporation; or
- (c) to charitable organizations or to organizations whose objects are beneficial to a community. 1949, c. 14, s. 1, *part*.

By-laws.

153.—(1) A corporation may enact by-laws providing for,

- (a) the division of its members or shareholders into groups, either territorially or on the basis of common interest;

- (b) the election of directors for each group on the basis of the number of members or shareholders in each group or the volume of business done by each group with the corporation, or both;
- (c) the election of delegates and alternative delegates to represent each group on the basis of the number of members or shareholders in each group or the volume of business done by each group with the corporation, or both;
- (d) where all of the members or shareholders are corporations, the election of delegates and alternative delegates to represent such corporations on the basis of the number of members or shareholders in each corporation or the volume of business done with each corporation, or both;
- (e) the number and method of electing delegates;
- (f) the holding of meetings of delegates;
- (g) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members or shareholders;
- (h) the holding of meetings of members, shareholders or delegates territorially or on the basis of common interest;
- (i) the payment of expenses of delegates attending meetings.

(2) A delegate shall have only one vote and shall not vote ^{Voting.} by proxy.

(3) No person shall be elected a delegate who is not either ^{Qualifica-} a member or shareholder of the corporation or a director, ^{tion of} officer, member or shareholder of a corporate member or ^{delegate.} shareholder of the corporation.

(4) No such by-law shall prohibit members or shareholders ^{Proviso.} from attending meetings of delegates. 1949, c. 14, s. 1, *part.*

154.—(1) The by-laws of a corporation passed pursuant to ^{By-laws} this Part shall not take effect until confirmed by a vote of ^{to be} confirmed. ^{confirmed.} two-thirds of the members or shareholders present or represented at a meeting duly called for considering the by-law.

By-laws a
contract.

(2) The by-laws of the corporation shall bind the corporation and its members or shareholders to the same extent as if the by-laws had respectively been signed and sealed by each member or shareholder and contained covenants on behalf of each member or shareholder, his heirs, executors and administrators to conform thereto subject to this Part. 1949, c. 14, s. 1, *part.*

Duties,

155.—(1) Every corporation shall,

filing
by-laws;

(a) file in the office of the Provincial Secretary within 30 days after confirmation by the members or shareholders, copies of all its by-laws certified under its corporate seal;

delivering
copies of
by-laws;

(b) deliver a copy of the by-laws to a member or shareholder when requested in writing so to do;

transmit
statements
to Provincial
Secretary;

(c) transmit forthwith after each annual meeting to the office of the Provincial Secretary a copy of the balance sheet, statement of income and expenditure and report of the auditor presented thereat; and

delivering
statements
to members.

(d) deliver to every member or shareholder on demand in writing a copy of the balance sheet, statement of income and expenditure and report of the auditor.

Penalty.

(2) If a corporation fails to comply with subsection 1 it shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100, and every director and officer of the corporation who authorizes or permits such failure shall be guilty of an offence and on summary conviction shall be liable to a like penalty. 1949, c. 14, s. 1, *part.*

Educational
and ad-
visory work.

156. A corporation shall have power to carry on, encourage and assist educational and advisory work relating to co-operatives and the co-operative ideal. 1949, c. 14, s. 1, *part.*

Powers of
Lieutenant-
Governor
in Council.

157. The Lieutenant-Governor in Council may,

(a) relieve any corporation incorporated prior to the 1st day of June, 1949, from compliance with any of the provisions of this Part; and

(b) declare that a corporation shall no longer be subject to this Part, and change such corporation's name, if it appears to the Lieutenant-Governor in Council that 50 per cent or more in value of the business

of the corporation during its last fiscal year was transacted with persons or corporations who were neither members nor shareholders of the corporation. 1949, c. 14, s. 1, *part*.

PART XIII

COMPANIES OPERATING MUNICIPAL FRANCHISES AND PUBLIC UTILITIES

Incorporation and Powers

158. This Part shall apply to all applications for incorporation of companies intended to operate or control any public or municipal franchise, undertaking or utility and which may require for its purposes the erection of any permanent structure in or upon any highway, stream or adjoining navigable waters, and to such companies when incorporated. R.S.O. 1937, c. 251, s. 159.

159. With the application for incorporation the applicants shall produce to the Provincial Secretary, Application of Part. Material to be produced on application.

- (a) evidence that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated, that such capital has been subscribed or underwritten, and that the applicants are likely to command public trust and confidence in the undertaking;
- (b) a detailed description of the plant, works and intended operations of the company, and an estimate of their cost;
- (c) a by-law of every municipality in which the operations of the company are to be carried on, authorizing the execution thereof in the manner set out in such detailed description, where the consent of the council of the municipality is required by law to authorize the company to carry on its operations therein;
- (d) if the undertaking is to be carried on, or in so far as it is to be carried on, in territory without municipal organization, a report from the Minister of Lands and Forests approving of the undertaking;

- (e) if it is proposed that the company shall acquire any plant, works, land, undertaking, good will, contract or other property or assets, a detailed statement of the nature and value thereof;
- (f) such further information as the Provincial Secretary may require. R.S.O. 1937, c. 251, s. 160.

Referring application to engineers, etc., for report.

160. The Provincial Secretary may refer the application and all statements, evidence and material filed thereon to engineers, architects, valuers or other experts for consideration, investigation and report regarding the public necessity for the undertaking, the amount of capital required therefor, the value of any plant, works, lands, undertaking, good-will, contract or other property or assets to be acquired and any other matter which may appear to be in the public interest regarding the undertaking. R.S.O. 1937, c. 251, s. 161.

Letters patent to be issued on Order in Council.

161. All letters patent and supplementary letters patent of companies to which this Part applies and of all companies incorporated before the 1st day of July, 1907, for any of the purposes mentioned in section 158, shall be issued on the authority of the Lieutenant-Governor in Council, and such letters patent or supplementary letters patent may be issued in terms and on conditions different from those applied for. R.S.O. 1937, c. 251, s. 162.

Notice of application.

162. Notice of the application shall be published in such manner and shall be given to such persons as the Provincial Secretary may determine. R.S.O. 1937, c. 251, s. 163.

Limitations in charter.

163. The letters patent or supplementary letters patent, may limit the term of the existence of the company, the rate of dividend payable on the shares of the capital stock, the amount which the company may borrow on debentures, debenture stock, mortgages or other securities and the rate of interest thereon. R.S.O. 1937, c. 251, s. 164.

Proofs, etc., to be produced on application for supplementary letters patent.

164. Upon an application for supplementary letters patent extending the powers increasing the capital or otherwise varying any term of the letters patent the company shall produce such evidence and statements as are referred to in section 159, and the Provincial Secretary may refer the same in the manner and for the purposes set out in section 160. R.S.O. 1937, c. 251, s. 165.

Supplementary letters patent, what may be contained in.

165. The supplementary letters patent may fix the conditions upon which any shares, debentures, debenture stock or other securities of the company, therein authorized to be

issued, may be allotted, sold or otherwise disposed of, and may be issued in terms and on conditions different from those applied for, and may vary any term or condition of the application. R.S.O. 1937, c. 251, s. 166.

166. No provision contained in this Part or in the letters patent or supplementary letters patent regarding the issue of debentures or other securities or the making of mortgages to secure the same shall in any way prejudice the right which any municipality may have to acquire or take possession of the plant and undertaking of the company. R.S.O. 1937, c. 251, s. 167. Rights of municipality preserved.

167.—(1) The company may pass by-laws regarding the control and management of its undertaking, its dealings with the public, the collection of tolls, charges, rates or levies for the public service given by the company, and for the use, protection and care of its property while being used, enjoyed or otherwise subject to public use; but no such by-laws shall have any force or effect or be acted upon until approved by the Lieutenant-Governor in Council and notice of the approval has been published four times in a public newspaper published at the place where the undertaking of the company is carried on, or as near thereto as may be, unless such publication is dispensed with by the Minister. R.S.O. 1937, c. 251, s. 168 (1); 1946, c. 10, s. 3. Company may pass by-laws for control, etc. of undertaking.

(2) Every person who contravenes any of the provisions of any such by-law shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20. R.S.O. 1937, c. 251, ss. 168 (2), 129. Penalty.

168. In addition to the other returns which are required by this or any other Act the company shall on or before the 8th day of February in each year make a report to the Provincial Secretary, verified as provided by subsection 3 of section 3 of *The Companies Information Act*, which shall specify, Additional returns. Rev. Stat., c. 60.

- (a) the cost of the work, plant and undertaking of the company;
- (b) the amount of its capital, and the amount paid thereon;
- (c) the amount received during the year from tolls, levies, rates and charges and all other sources, stating each separately;

- (d) the amount and rate of dividends paid;
- (e) the amount expended for repairs; and
- (f) a detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the current year, together with an estimate of the cost thereof. R.S.O. 1937, c. 251, s. 169.

Inspection
of books.

169. The Provincial Secretary may appoint a person to inspect and examine the books of account of the company, and every person so appointed may take copies or extracts from the same, and may require and receive from the keeper of such books, and also from the president and each of the directors of the company, and all the other officers and servants thereof, all such information as to such books and the affairs of the company generally as the person so appointed deems necessary for the full and satisfactory investigation into and report upon the state of the affairs of the company so as to enable him to ascertain the correctness of statements furnished by the company. R.S.O. 1937, c. 251, s. 170.

Existence of
company
may be
extended by
supplemen-
tary letters
patent.

170. The Lieutenant-Governor in Council by supplementary letters patent may extend the term of existence of any company incorporated for a limited period under this Act, or heretofore incorporated under any other general Act, for such further period, as by Order in Council, made before the expiry of such period, he may direct, and the provisions of this Act relating to the expiration of the term of existence of a company shall thereupon apply to such term as so extended. R.S.O. 1937, c. 251, s. 171.

Expropriation

Powers of
expropria-
tion.

171.—(1) A company to which this section is made applicable by the letters patent or supplementary letters patent may take, without the consent of the owner thereof, such lands and easements as may be necessary for the purposes of its undertaking, in like manner as under *The Railways Act*, lands may be expropriated for the purpose of a railway; but any such right of expropriation may be limited or the application of any section of that Act may be excluded.

Rev. Stat.,
c. 331.

Application
of section.

(2) This section shall apply to a company incorporated before the 1st day of July, 1907, under any general or special Act. R.S.O. 1937, c. 251, s. 172.

PART XIV

WINDING UP OF COMPANIES

Generally

172. The liability of any person to contribute to the assets of a corporation under this Act, in the event of the corporation being wound up, shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability. R.S.O. 1937, c. 251, s. 173.

Nature of liability of contributory.

173. If a contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs and devisees shall be liable in due course of administration to contribute to the assets of the corporation in discharge of the liability of such deceased contributory and shall be deemed to be contributories accordingly. R.S.O. 1937, c. 251, s. 174.

Who liable in case of his death.

Voluntary Winding Up

174. A corporation may be wound up voluntarily,

Voluntary winding up.

- (a) where the period, if any, fixed for the duration of the corporation by the Act, letters patent or instrument of incorporation or by supplementary letters patent, has expired, or where the event, if any, has occurred, upon the occurrence of which it is provided by the Act or letters patent or instrument of incorporation or by supplementary letters patent that the corporation is to be dissolved, and the corporation in general meeting has passed a resolution requiring the corporation to be wound up;
- (b) where the corporation, in general meeting called for that purpose, has passed a resolution requiring the corporation to be wound up;
- (c) where the corporation, though it may be solvent as respects creditors, has passed a resolution in general meeting to the effect that it has been proved to its satisfaction that the corporation cannot, by reason of its liabilities, continue its business and that it is advisable to wind it up. R.S.O. 1937, c. 251, s. 175.

Commence-
ment of
winding-up.

175. A winding up shall be deemed to commence at the time of the passing of the resolution authorizing the winding up. R.S.O. 1937, c. 251, s. 176.

Corporation
to cease
business.

176. Whenever a corporation is wound up voluntarily the corporation shall, from the date of the commencement of such winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alterations in the status of the shareholders or members of the corporation, taking place after the commencement of such winding up, shall be void; but its corporate state and all its corporate powers, notwithstanding that it is otherwise provided by its constating instrument or by-laws, shall continue until the affairs of the corporation are wound up. R.S.O. 1937, c. 251, s. 177.

Publication
of notice of
winding-up.

177. Notice of any resolution passed for winding up a corporation voluntarily shall be given by advertisement in *The Ontario Gazette*, and shall be filed in the office of the Provincial Secretary. R.S.O. 1937, c. 251, s. 178.

No proceed-
ings against
corporation
after winding
up except
by leave.

178.—(1) After the commencement of the winding up no action or other proceeding shall be proceeded with or commenced against the corporation, and no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation, except by leave of the court and subject to such terms as the court may impose.

Exception.
R.S.C. 1927,
c. 213.

(2) This section shall not apply to any proceeding taken under the *Winding-up Act* (Canada), or other Act respecting insolvency or bankruptcy for the time being in force. R.S.O. 1937, c. 251, s. 179.

Conse-
quences of
winding up,
application
of assets;

179. Upon a voluntary winding up,

(a) the property of the corporation shall be applied in satisfaction of all its liabilities *pari passu*, and, subject thereto, shall, unless it is otherwise provided by the by-laws of the corporation, be distributed rateably among the shareholders or members according to their rights and interests in the corporation;

priority of
claims of
certain
employees,
to what
extent;

(b) in distributing the assets of the corporation the salary or wages of all clerks and wage-earners in the employment of the corporation due at the date of

the commencement of the winding up or within one month before, not exceeding three months salary or wages, shall be paid in priority to the claims of the ordinary general creditors, and such persons shall be entitled to rank as ordinary or general creditors for the residue of their claims;

- (c) the corporation in general meeting shall appoint such person or persons as it thinks fit to be a liquidator or liquidators for the purpose of winding up the affairs of the corporation and distributing its property, and shall fix the remuneration to be paid to him or them; appointment of liquidator and remuneration;
- (d) if one person only is appointed all the provisions in idem; reference to several liquidators shall apply to him;
- (e) upon the appointment of liquidators all the powers of the directors shall cease except in so far as the corporation in general meeting or the liquidators may sanction the continuance of such powers; powers of directors to cease;
- (f) where several liquidators are appointed every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or in default of such determination by any number not less than two; powers to be exercised by liquidators;
- (g) the liquidators shall settle the list of contributories, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories; settlement of list of contributories;
- (h) the liquidators may, at any time after the passing of the resolution for winding up and before they have ascertained the sufficiency of the assets of the corporation, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability to pay any sum which they may deem necessary to satisfy the debts and liabilities of the corporation, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the same; demand payment from contributories;

liquidators
to pay debts
of
corporation.

- (i) the liquidators shall pay the debts of the corporation and adjust the rights of the contributories, shareholders or members among themselves. R.S.O. 1937, c. 251, s. 180.

Payment of
costs and
expenses.

180. All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidators, after taxation by one of the taxing officers of the Supreme Court at Toronto who is hereby empowered to tax the same, shall be payable out of the assets of the corporation in priority to all other claims. R.S.O. 1937, c. 251, s. 181.

Powers of
liquidators
to,

181.—(1) The liquidators shall have power,

bring or
defend
actions;

- (a) to bring or defend any action, suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the corporation;

carry on
business of
corporation;

- (b) to carry on the business of the corporation so far as may be necessary for the beneficial winding up of the corporation;

sell by
public
auction or
private
contract;

- (c) to sell *en bloc* or in parcels the real and personal property, effects and things in action of the company by public auction or private contract;

execute
deeds, etc.;

- (d) to do all acts and execute, in the name and on behalf of the corporation, all deeds, receipts and other documents, and for that purpose use the seal of the corporation;

draw and
endorse
promissory
notes, etc.;

- (e) to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;

raise sums
necessary;

- (f) to raise upon the security of the assets of the corporation from time to time any requisite sum or sums of money;

take out
letters of
adminis-
tration, etc.;

- (g) to take out in their official name letters of administration to the estate of any deceased contributory and do in their official name any other act that may be necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be conveniently done in the name of the corporation;

do all other
things
necessary.

- (h) to do and execute all such other things as may be necessary for winding up the affairs of the corporation and distributing its assets.

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note on behalf of the corporation shall have the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such corporation in the course of carrying on the business thereof.

Bills of exchange, etc., to be deemed drawn in due course.

(3) Where the liquidators take out letters of administration or otherwise use their official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling them to take out such letters or recover such money, to be due to the official liquidators themselves. R.S.O. 1937, c. 251, s. 182.

When moneys deemed to be due to liquidators.

182. A corporation about to be wound up voluntarily, or in the course of being so wound up, may, in general meeting, by resolution, delegate to any committee of its shareholders or members, contributories or creditors, hereinafter referred to as inspectors, the power of appointing liquidators and filling any vacancies in the office of liquidators, or may by a like resolution enter into any arrangement with its creditors with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised. R.S.O. 1937, c. 251, s. 183.

Inspectors.

183.—(1) The liquidators shall deposit at interest in some chartered bank at a branch or agency in Ontario all sums of money which they may have in their hands belonging to the corporation, whenever such sums amount to \$100.

Deposit in bank by liquidators.

(2) If inspectors have been appointed, the bank shall be one approved by them.

Approval of bank by inspectors.

(3) Such deposit shall not be made in the name of the liquidators generally, but a separate deposit account shall be kept of the money belonging to the corporation, in the name of the liquidators as such, and of the inspectors, if any, and such money shall be withdrawn only on the joint cheque of the liquidators and one of the inspectors, if there is any.

Separate deposit account to be kept; withdrawal from account.

(4) At every meeting of the shareholders or members of the corporation the liquidators shall produce a pass-book, showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and dates of withdrawal, and of which production, mention shall be made in the minutes of the meeting, and the absence of such mention shall be *prima facie* evidence that the pass-book was not produced at the meeting.

Liquidators to produce bank pass-book.

Idem.

(5) The liquidators shall also produce the pass-book whenever so ordered by the court upon the application of the inspectors or of a shareholder or member of the corporation. R.S.O. 1937, c. 251, s. 184.

Meetings of corporation during winding up.

184.—(1) The liquidators may from time to time during the continuance of the winding up, summon general meetings of the corporation for the purpose of obtaining the sanction of the corporation by resolution, or for any other purpose they think fit.

Where winding up continues more than one year.

(2) In the event of the winding up continuing for more than one year the liquidators shall summon a general meeting of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding up has been conducted during the preceding year. R.S.O. 1937, c. 251, s. 185.

Vacancy in office of liquidator.

185. If any vacancy occurs in the office of liquidators appointed by the corporation by death, resignation or otherwise the corporation in general meeting may, subject to any arrangement it may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a general meeting for that purpose may be convened by the continuing liquidators, if any, or by any contributory, and shall be deemed to have been duly held in the manner prescribed by the by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling general meetings of the shareholders or members of the corporation. R.S.O. 1937, c. 251, s. 186.

Distribution of assets.

Rev. Stat., c. 400.

Arrangements with creditors may be authorized.

186. Section 51 of *The Trustee Act* shall apply *mutatis mutandis* to liquidators. R.S.O. 1937, c. 251, s. 187.

187. The liquidators, with the sanction of a resolution of the corporation in general meeting or of the inspectors, may make such compromise or other arrangement as the liquidators deem expedient, with any creditor or person claiming to be a creditor or having or alleging that he has any claim, present or future, certain or contingent, ascertained or sounding only in damages, against the corporation or whereby the corporation may be rendered liable. R.S.O. 1937, c. 251, s. 188.

Power to compromise with debtors and contributories.

188. The liquidators may, with the like sanction, compromise all calls and liabilities to call, debts and liabilities capable of resulting in debts, and all claims, whether present

or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person apprehending liability to the corporation and all questions in any way relating to or affecting the assets of the corporation, or the winding up of the corporation, upon the receipt of such sums, payable at such times and generally upon such terms as may be agreed upon, and the liquidators may take any security for the discharge of such calls, debts or liabilities and give a complete discharge in respect thereof. R.S.O. 1937, c. 251, s. 189.

189.—(1) Where a corporation is proposed to be or is in the course of being wound up, and the whole or a portion of its business or property is proposed to be transferred or sold to another corporation, the liquidators of the first-mentioned corporation, with the sanction of a resolution in general meeting of the corporation by which they were appointed conferring either a general authority on the liquidators or an authority in respect of any particular arrangement, may receive, in compensation or in part compensation for such transfer or sale, shares or other like interest in such other corporation for the purpose of distribution among the shareholders or members of the corporation which is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash, shares, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing corporation.

Power to accept shares, etc., as a consideration for sale of property to another company.

(2) Any sale made or arrangement entered into by the liquidators in pursuance of this section shall be binding on the shareholders or members of the corporation which is being wound up or in each class of shareholders or members if there be more than one class, provided that in the case of a company, the shareholders or classes of shareholders as the case may be, present in person or by proxy at a general meeting duly called for the purpose, by votes representing three-fourths of the shares or each class of shares represented at such meeting, or in the case of a corporation without share capital, by a majority representing three-fourths in number of the members or each class of members in the event of there being more than one class, approve such sale or arrangement, and such sale or arrangement in either case is approved by an order made by a judge of the Supreme Court in chambers on the application of the corporation.

Confirmation of sale or arrangement by liquidators.

(3) No resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to or concurrently with a resolution for winding up the corporation or for appointing liquidators. R.S.O. 1937, c. 251, s. 190.

Special resolution not invalid because prior to resolution to wind up

Proving
claims.

Rev. Stat.,
c. 26.

190. For the purpose of proving claims, sections 25, 26 and 27 of *The Assignments and Preferences Act* shall *mutatis mutandis* apply except that where the word "judge" is used there shall be substituted for it the words "master or local master" mentioned in section 191. R.S.O. 1937, c. 251, s. 191.

Application
to master or
local master
for opinion.

191.—(1) The master, where the head office of the corporation is in the county of York, or the local master where the head office is in any other county or in a district, or the master or any local master where a judge of the Supreme Court deems it more convenient that the application should be made to him, and so directs or allows upon the application of the liquidators or of the inspectors or of any creditor affected by section 187, after hearing such parties as he directs to be notified, or after such steps as he may prescribe have been taken, may give his opinion, advice or direction in any matter arising in the liquidation, and the same shall be followed and shall be binding upon all parties in the liquidation, subject to an appeal to a judge of the Supreme Court in chambers, if leave to appeal is given by such master or local master or by a judge of the Supreme Court, and the order of the judge shall be final and binding in the liquidation.

By creditors.

(2) A creditor affected by anything done or proposed to be done under the authority of section 189 shall have the like right to apply in respect thereof, and in other respects subsection 1 shall apply. R.S.O. 1937, c. 251, s. 192.

Winding up under Order of the Court

Winding up
by court.

192. A corporation may be wound up by order of the Supreme Court,

- (a) where it may be wound up voluntarily;
- (b) where proceedings have been begun to wind up voluntarily and it appears to the court that it is in the interest of contributories and creditors that they should be continued under the supervision of the court;
- (c) where in the opinion of the court it is just and equitable for some reason other than the bankruptcy or insolvency of the corporation that it should be wound up; or
- (d) where the letters patent have been declared forfeited or revoked or made void. R.S.O. 1937, c. 251, s. 193.

193.—(1) The winding-up order may be made by a judge ^{Who may apply.} or local judge of the Supreme Court in chambers upon the petition of the corporation or of a shareholder or member or, when the corporation is being wound up voluntarily, of the liquidator or a contributory or of a creditor having a claim of \$200 or upwards.

(2) Except where the application is made by the corporation ^{Notice.} four days notice shall be given to the corporation before the making of the order. R.S.O. 1937, c. 251, s. 194.

194. Where a winding-up order is made by the court ^{Commencement of winding up.} without prior voluntary winding-up proceedings the winding up shall be deemed to commence at the time of service of notice of the presentation of the petition. R.S.O. 1937, c. 251, s. 195.

195. The court may make the order applied for, may dis- ^{Powers of court.} miss the petition with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as may be deemed just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up, and may also delegate any powers of the court conferred by this Act to any officer of the court. R.S.O. 1937, c. 251, s. 196.

196.—(1) The court in making the winding-up order may ^{Appointment of liquidator.} appoint a liquidator or liquidators of the estate and effects of the corporation; but no such liquidator shall be appointed unless a previous notice is given to the creditors, contributories, shareholders or members in the manner and form prescribed by the court.

(2) If a liquidator has already been appointed in a volun- ^{Notice when not necessary.} tary liquidation such notice need not be given. R.S.O. 1937, c. 251, s. 197.

197.—(1) If from any cause there is no liquidator acting ^{Appointment by court.} either provisionally or otherwise the court may on the application of a shareholder or member of the corporation appoint a liquidator or liquidators.

(2) The court may also, for due cause, remove a liquidator ^{Removal of liquidator.} and appoint another liquidator.

(3) When there is no liquidator the estate shall be under ^{The case of no liquidator.} the control of the court until the appointment of a liquidator. R.S.O. 1937, c. 251, s. 198.

Proceedings
in winding
up after
order.

198. When a winding-up order has been made proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as hereinbefore provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator prior to the winding-up order, in which case such list shall be subject to review by the court, and except that all proceedings in the winding up shall be subject to the order and direction of the court. R.S.O. 1937, c. 251, s. 199.

Meetings of
members of
company
may be
ordered.

199.—(1) The court may direct meetings of the shareholders or members of the corporation to be summoned, held and conducted in such manner as the court deems fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court.

Order for
delivery
by con-
tributories
and others
of property,
etc.

(2) The court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker or agent or officer of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, books, papers, estate, or effects which are in his hands and to which the corporation is *prima facie* entitled.

Inspection
of books.

(3) The court may make such order for the inspection by the creditors and contributories of the corporation of its books and papers as the court deems just, and any books and papers in the possession of the corporation may be inspected in conformity with the order of the court; but not further or otherwise. R.S.O. 1937, c. 251, s. 200.

Examination
of persons
before
court or
liquidator.

200.—(1) The court may, at any time after the commencement of the winding up, summon to appear before the court or liquidator any officer of the corporation, or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or supposed to be indebted to it, or any person whom the court may deem capable of giving information concerning its trade, dealings, estate or effects.

Power of
court to
assess
damages
against
delinquent
directors,
etc.

(2) Where in the course of the winding up it appears that any person who has taken part in the formation or promotion of the corporation or any past or present director, manager, or official or other liquidator, or receiver, or any officer or employee of the corporation has misapplied, or retained in his own hands, or become liable or accountable for, money of the corporation, or been guilty of any misfeasance or breach

of trust in relation to it, the court may, on the application of a liquidator or of any creditor or contributory, examine into the conduct of the person charged and compel him to repay the money so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the court deems just, or to contribute such sum to the assets of the corporation by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust as the court deems just. R.S.O. 1937, c. 251, s. 201.

201.—(1) If a shareholder or member of the corporation desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or members, or of the inspectors, refuses or neglects to take such proceeding, after being required so to do, the shareholder or member may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court may prescribe.

Proceedings by shareholders at their own expense and for their own benefit only.

(2) Thereupon any benefit derived from such proceeding shall belong exclusively to the shareholder or member instituting the proceeding for his benefit and that of any other shareholder or member who may have joined him in causing the institution of the proceeding.

Benefits, when exclusively for shareholders.

(3) If before such order is granted the liquidator signifies to the court his readiness to institute such proceeding for the benefit of the corporation, an order shall be made prescribing the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall belong to the corporation. R.S.O. 1937, c. 251, s. 202.

Benefits, when for corporation.

202. The rights conferred by this Act shall be in addition to any other right of instituting proceedings against any contributory, or against any debtor of the corporation, for the recovery of any call or other sum due from such contributory or debtor or his estate. R.S.O. 1937, c. 251, s. 203.

Rights conferred by Act to be in addition to other powers.

203. At any time after an order has been made for winding up, the court, upon the application of any contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings, either altogether or for a limited time, on such terms and subject to such conditions as the court deems fit. R.S.O. 1937, c. 251, s. 204.

Stay of proceedings.

Appeal.

204. An appeal shall lie from any order or decision of a local judge, or of any officer to whom a reference is made, to a judge of the Supreme Court sitting in court, as in the case of an appeal from the master's report in an action. R.S.O. 1937, c. 251, s. 205.

To the
Court of
Appeal.

205. An appeal shall lie to the Court of Appeal by leave of a judge of the Supreme Court from any order or decision of a judge of that court in any proceeding in a winding up under an order of the court when,

- (a) the question raised on the appeal involves future rights; or
- (b) the order or decision is likely to affect other cases of a similar nature in the winding up proceedings; or
- (c) the amount involved in the appeal exceeds \$500,

and the decision of the Court of Appeal shall be final. R.S.O. 1937, c. 251, s. 206.

Rules of
procedure.

206. The Lieutenant-Governor in Council may make rules for the due carrying out of the provisions of this Part, and, except as otherwise provided by this Act or by such rules, the practice and procedure in a winding up under the *Winding-up Act* (Canada), shall apply. R.S.O. 1937, c. 251, s. 207.

R.S.C. 1927,
c. 213.

Account of
winding up
to be made
by liquidator
to a general
meeting.

207.—(1) Where the affairs of the corporation have been fully wound up, the liquidator shall make up an account showing the manner in which the winding up has been conducted, and the property of the corporation disposed of, and thereupon shall call a general meeting of the shareholders or members of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner provided by the by-laws for calling general meetings.

Return of
holding of
meeting to
be sent to
Provincial
Secretary.
dissolution.

(2) The liquidator shall make a return to the Provincial Secretary of such meeting having been held, and of the date on which the meeting was held, and the return shall be filed in the office of the Provincial Secretary, and on the expiration of three months from the date of the filing the corporation shall *ipso facto* be dissolved. R.S.O. 1937, c. 251, s. 208.

Order for
dissolution.

208.—(1) Notwithstanding section 207, the court at any time after the affairs of the corporation have been fully wound up may make an order dissolving the corporation, and the corporation shall be dissolved at and from the date of such order.

(2) The order shall be forthwith reported by the liquidator to the Provincial Secretary. Reports thereon.

(3) If the liquidator makes default in transmitting the return, or in reporting the order, if any, declaring the corporation dissolved, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20 for every day during which he is in default. R.S.O. 1937, c. 251, ss. 209, 129. Penalty on default in reporting by liquidator or in making return.

209. All dividends deposited in a bank and remaining unclaimed at the time of the dissolution of the corporation shall be left for three years in the bank where they are deposited, or in another bank if so ordered by the court or judge, and, if then unclaimed, shall be paid over, with interest accrued thereon, to the Treasurer of Ontario, and if afterwards duly claimed shall be paid over by the Treasurer to the persons entitled thereto. R.S.O. 1937, c. 251, s. 210. Disposition of unclaimed dividends.

210.—(1) Every liquidator shall, within 30 days after the date of dissolution of the corporation, deposit in the bank appointed or named as hereinbefore provided any other money then in his hands not required for any other purpose authorized by this Act, with a sworn statement giving an account of such money, and stating that such money is all he has in his hands, and in case of default he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10 for every day during which he is in default. R.S.O. 1937, c. 251, ss. 211 (1), 129. Deposit by liquidator with sworn statement, penalty.

(2) The money so deposited shall remain deposited as provided by section 209 for three years in the bank, and shall be then paid over, with interest, to the Treasurer of Ontario, and if afterwards duly claimed shall be paid over to the person entitled thereto. Money to remain on deposit for three years.

(3) Where a corporation has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the corporation and of the liquidators may be disposed of as the corporation by resolution directs in case of voluntary winding up or as the court directs in case of winding up under order. Disposal of books, etc., after winding up.

(4) After the lapse of five years from the date of such dissolution no responsibility shall rest on the corporation or the liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. R.S.O. 1937, c. 251, s. 211 (2-4). After five years, responsibility as to custody of books, etc., to cease.

Provision
for discharge
of liquidator
and
distribution
by the court.

211.—(1) Whenever a corporation is being wound up under an order of the court, and the realization and distribution of its assets has proceeded so far that in the opinion of the court it becomes expedient that the liquidator should be discharged, and that the balance remaining in his hands of the money and assets of the corporation can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court may direct, of such money and assets, and the same shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Disposal of
books and
documents.

(2) In such case the court may make an order directing how the books, accounts and documents of the corporation and of the liquidator may be disposed of, and may order that they be deposited in court or otherwise dealt with as may be thought fit. R.S.O. 1937, c. 251, s. 212.

PART XV

GENERAL PROVISIONS

Varying
powers or
obligations
of existing
corporations
affected by
repeal of
former enact-
ments.

212.—(1) The Lieutenant-Governor in Council may by supplementary letters patent, upon the application of a corporation or of a shareholder, a creditor or a holder of bonds, debentures, debenture stock, or other securities or obligations thereof, or of any person with whom the corporation may have dealings, relieve the corporation from any duty, obligation or other disability which may have been imposed, or may limit any right, power or other advantage which may have been conferred upon the corporation by the repeal of the general Act under which it was incorporated and by the enactment of this Act or any predecessor of this Act.

Publication
of the
change.

(2) Notice shall thereupon be given by the Provincial Secretary of such supplementary letters patent in *The Ontario Gazette*, setting out the manner in which any such duty, obligation or other disability has been relieved or in which such right, power or other advantage has been limited. R.S.O. 1937, c. 251, s. 214.

Application
of Act.

213. This Act, except in so far as it is otherwise expressly declared shall apply,

- (a) to every company incorporated under any special or general Act of the Parliament of the late Province of Upper Canada;

- (b) to every company incorporated under any special or general Act of the Parliament of the late Province of Canada which has its head office and carries on business in Ontario, and which was incorporated with objects or purposes to which the authority of the Legislature extends;
- (c) to every corporation incorporated under any of the Acts repealed by *The Ontario Companies Act* (1907), 1907, c. 34. or under any Act for which any of such repealed Acts was substituted or to which any of such Acts was applicable;
- (d) to every company incorporated under a special Act to which any of the provisions of *The Ontario Joint Stock Companies' General Clauses Act* or any Act Rev. Stat., 1897, c. 189. for which that was substituted was applicable;
- (e) to every corporation incorporated under *The Ontario Companies Act* (1907), *The Ontario Companies Act* (1912), *The Ontario Companies Act* (1914), *The Companies Act* (1927), *The Companies Act* (1937), 1907, c. 34.
1912, c. 31.
Rev. Stat., 1914, c. 178;
Rev. Stat., 1927, c. 218;
Rev. Stat., 1937, c. 251. or this Act;
- (f) to every company incorporated under any general or special Act of the Legislature,

except a company incorporated for the construction and working of a railway, incline railway or street railway, the business of insurance except as provided by *The Insurance Act*, and the business of a corporation within the meaning of *The Loan and Trust Corporations Act*, except as provided by that Act. Rev. Stat., c. 183.
Rev. Stat., c. 214. R.S.O. 1937, c. 251, s. 215.

214. The Lieutenant-Governor in Council may relieve any company incorporated before the 1st day of July, 1907, from compliance with any of the provisions of this Act. Relief from compliance with Act. R.S.O. 1937, c. 251, s. 216.

215. Every corporation or company heretofore or hereafter created, General corporate powers of certain companies.

- (a) by or under any special or general Act of the Parliament of the late Province of Upper Canada;
- (b) by or under any special or general Act of the Parliament of the late Province of Canada, which has its head office and carries on business in Ontario, and which was incorporated with objects or purposes to which the authority of this Legislature extends;

1907, c. 34.

(c) by or under any of the Acts repealed by *The Ontario Companies Act* (1907), or under any Act for which any of such repealed Acts was substituted or to which any of such Acts was applicable;

Rev. Stat.,
1897, c. 189.

(d) by or under a special Act to which any of the provisions of *The Ontario Joint Stock Companies' General Clauses Act* or any Act for which that was substituted were applicable;

(e) by or under any general or special Act of this Legislature,

shall, unless otherwise expressly declared in the Act or instrument creating it, have, and be deemed from its creation to have had, the general capacity which the common law ordinarily attaches to corporations created by charter. R.S.O. 1937, c. 251, s. 217.

PART XVI

INSURANCE COMPANIES

Interpre-
tation.Rev. Stat.,
c. 183.

216. In this Part, unless the context otherwise requires, the words and expressions defined in section 1 of *The Insurance Act*, as used herein, shall have the same meaning as in that Act. R.S.O. 1937, c. 251, s. 218.

Application
of Part.

217.—(1) This Part shall apply to all applications for incorporation of insurers intending to undertake contracts of insurance within Ontario, and to such insurers when incorporated, and to all insurers incorporated before the 1st day of January, 1925, under the law of Ontario.

Application
of Act.

(2) Except where inconsistent with this Part, this Act shall apply to all such insurers.

Approval of
Superin-
tendent of
Insurance.

(3) No letters patent granting a charter under this Part shall be issued without the written approval of the Superintendent. R.S.O. 1937, c. 251, s. 219.

Incorporation of Joint Stock Insurance Companies

Incorporation.

218. A joint stock insurance company may be incorporated under this Act for the purpose of undertaking and transacting any class of insurance for which a joint stock insurance company may be licensed under *The Insurance Act*. R.S.O. 1937, c. 251, s. 220.

Rev. Stat.,
c. 183.

219.—(1) Applicants for incorporation shall, immediately Notice.
prior to the application, publish in at least four consecutive
issues of *The Ontario Gazette* notice of their intention to apply,
and shall also, if so required, publish elsewhere notice of such
intention.

(2) Applicants for incorporation shall also give at least Notice to Superintendent.
one month's notice of their intention to apply for incorporation
to the Superintendent. R.S.O. 1937, c. 251, s. 221 (1, 2).

220.—(1) In this section, "money received on account of Interpre-
shares" includes money received as premium on shares.
R.S.O. 1937, c. 251, s. 222 (7).

(2) If the company undertakes life insurance the authorized Capital stock of life companies.
capital stock shall be not less than \$500,000.

(3) If the company undertakes any one or more classes Other cases.
of insurance other than life, the authorized capital stock shall
be not less than \$300,000.

(4) The capital stock shall be divided into shares of \$100 Par value of shares in insurance companies.
each, provided that where not less than \$200,000 of the
authorized capital is subscribed for and paid up in cash, and
a surplus of not less than 50 per cent of such subscribed
capital stock has been established, the capital stock may be
divided into shares of any multiple of \$5, provided that the
par value shall be not less than \$10.

(5) All money received on account of shares shall be paid Application of moneys received on account of shares.
into a branch or agency in Ontario of some chartered bank of
Canada or into a registered trust company in trust for the
proposed corporation, and no money paid on account of shares
before the first general meeting of the company has been
organized shall be withdrawn or paid over to the company
until after such meeting has been organized and an election
of directors had thereat.

(6) Every subscription to the capital stock made prior to Return of subscriptions on failure to secure licence.
the granting of a licence pursuant to *The Insurance Act* shall
contain the stipulation that all moneys received on account
of shares shall be returned to the subscribers without any
deduction for promotion, organization or other expenses, in Rev. Stat., c. 183.
case the insurer fails to procure such a licence.

(7) Every subscription to the capital stock shall contain Limit of percentage of subscriptions for charges.
the stipulation that no sum shall be used or paid before or
after incorporation, for commission, promotion or organization
expenses in excess of a percentage, not exceeding 15, of the
amount of money received on account of shares. R.S.O. 1937,
c. 251, s. 222 (1-6).

Interpre-
tation.

221.—(1) In this section, “surplus to policy-holders” means the surplus of assets over liabilities excluding capital stock shown in the annual statement of the company at the end of the next preceding calendar year as filed with and approved by the Superintendent. R.S.O. 1937, c. 251, s. 223 (2).

Reduction
of capital
of life
insurance
companies.

(2) Where a company undertaking life insurance has insurance in force of less than \$25,000,000 and has a surplus to policy-holders in excess of \$500,000, the directors may pass a by-law authorizing an application to the Lieutenant-Governor for the issue of supplementary letters patent decreasing its authorized, subscribed and paid-in capital by not more than 50 per cent.

By-law and
letters
patent to
declare new
par value.

(3) The by-law and the supplementary letters patent shall declare the new par value of the shares and the liability of the shareholders on partially paid-in shares.

Application,
when to
be made.

(4) The application shall not be made until the by-law has been confirmed by a vote of the shareholders present or represented by proxy, at a general meeting duly called for considering the by-law, and holding not less than two-thirds of the issued capital stock represented at such meeting.

Surplus
not to be
decreased by
dividends to
shareholders.

(5) The supplementary letters patent shall contain a provision that any surplus created by reason of such decrease of capital shall not be decreased by dividends to shareholders which may be declared thereafter. R.S.O. 1937, c. 251, s. 223 (1, 3-5).

Ss. 262, 264,
265, applic-
able to
company
undertaking
life
insurance.

222. A company undertaking life insurance may, by resolution passed at a special general meeting called for such purpose, provide that subsections 2, 3 and 4 of section 262 and sections 264 and 265 shall apply to such company. R.S.O. 1937, c. 251, s. 224.

Amalgama-
tion.

Rev. Stat.,
c. 183.

223. Subject to the approval of the agreement of amalgamation by Order in Council pursuant to *The Insurance Act*, section 11 of this Act shall apply to the amalgamation of two or more joint stock insurance companies. R.S.O. 1937, c. 251, s. 225.

Amalgama-
tion, etc.,
of mutual
corporation
and joint
stock
corporation.

224.—(1) Subject to *The Insurance Act*, a mutual corporation incorporated under the law of Ontario transacting life insurance may amalgamate with or transfer its contracts to or reinsure such contracts with any licensed insurer transacting life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Confirmation
of agreement
by members.

(2) Notwithstanding anything contained in its Act or instrument of incorporation or its constitution and by-laws,

the board of directors may enter into any such agreement on behalf of the mutual corporation through its president and secretary, provided that no such agreement shall be binding or effective unless evidence satisfactory to the Superintendent is produced showing that the agreement has been confirmed by a vote of the majority of the members present or duly represented by proxy at a general or special general meeting of the mutual corporation and unless the agreement has been approved by the Lieutenant-Governor in Council pursuant to *The Insurance Act*.

Rev. Stat.,
c. 183.

(3) Notwithstanding anything contained in its Act or instrument of incorporation, or in its constitution and by-laws, or in any policy or certificate or other document evidencing a contract issued by a mutual corporation, or in the constitution or laws of or certificates issued by any fraternal society the contracts of which have been assumed by the mutual corporation, or for which the mutual corporation has become responsible, the terms of any such agreement so confirmed and approved shall be valid and binding as of the date stipulated in the agreement upon all the members of the mutual corporation and upon their beneficiaries and legal personal representatives and upon all persons deriving legal rights from any such member or beneficiary so long as they do not involve any new or increased rates of contribution or premium, and the claims of all persons under any such contract of insurance shall be restricted to such benefits only as are continued in accordance with the terms of such agreement, and such contracts shall be deemed to be amended accordingly.

Agreement
binding on
all members
of mutual
corporation.

(4) Upon the coming into force of any such agreement the reinsurer shall, in complying with the requirements of *The Insurance Act* in respect of the valuation of contracts so reinsured or transferred, be entitled to base its valuation upon such tables of mortality and upon such rates of interest as would have been authorized by law for such mutual corporation if no such agreement had been made. R.S.O. 1937, c. 251, s. 226.

Standard of
valuations.

Incorporation of Mutual and Cash-Mutual Insurance Corporations

225.—(1) A mutual or cash-mutual corporation with guarantee capital stock may be incorporated under this Act for the purpose of undertaking and transacting any class of insurance for which a mutual or cash-mutual insurance corporation may be licensed under *The Insurance Act*.

Incorporation with
guarantee
capital.

(2) A mutual insurance corporation without guarantee capital stock may be incorporated under this Act for the

Without
guarantee
capital.

purpose of undertaking contracts of fire insurance upon agricultural property, weather insurance or livestock insurance, on the premium note plan. R.S.O. 1937, c. 251, s. 227.

*Mutual Fire Insurance Corporations without Guarantee
Capital Stock*

Meeting to
establish
corporation,
how called.

226. Ten freeholders in any municipality may call a meeting of the freeholders thereof to consider whether it is expedient to establish therein a mutual fire insurance corporation without guarantee capital stock to undertake contracts of fire insurance upon agricultural property, on the premium note plan. R.S.O. 1937, c. 251, s. 228.

Advertise-
ment calling
meeting.

227. The meeting shall be called by advertisement stating the time, place and object of the meeting, and the advertisement shall be published once in *The Ontario Gazette* and once a week for three successive weeks in a newspaper published in the county or district in which the municipality is situate. R.S.O. 1937, c. 251, s. 229.

Subscription
book.

228. If 30 freeholders are present at the meeting and a majority of them determine that it is expedient to establish a mutual fire insurance corporation they may elect from among themselves three persons to open and keep a subscription book in which owners of real or personal property within Ontario may sign their names and enter the sum for which they shall respectively bind themselves to effect insurance with the corporation. R.S.O. 1937, c. 251, s. 230.

When meet-
ing may be
called.

229. When 100 or more of such owners have signed their names in the subscription book and bound themselves to effect insurance in the corporation amounting in the aggregate to not less than \$250,000, a meeting shall be called as herein-after provided. R.S.O. 1937, c. 251, s. 231.

How meeting
to be called.

230.—(1) When the subscription has been completed, any 10 of the subscribers may call the first meeting of the proposed corporation at such time and place within the municipality as they may determine by sending a printed notice by mail, addressed to every subscriber at his post office address at least 10 days before the day of the meeting, and by advertisement in a newspaper published in the county or district in which the municipality is situate.

Contents of
notice.

(2) The notice and advertisement shall state the object of the meeting and the time and place at which it is to be held. R.S.O. 1937, c. 251, s. 232.

231.—(1) At such meeting, or at any adjournment of it, the name and style of the company, which shall include the words “fire” and “mutual” shall be adopted, a secretary *ad interim* appointed, a board of directors elected as herein-after provided and some central and generally accessible place within the municipality or within a municipality adjacent thereto, named, at which the head office of the company shall be located.

Election of directors.

(2) The presence of at least 25 of the subscribers shall be necessary to constitute a valid meeting.

Quorum of meeting.

(3) As soon as convenient after the meeting, the secretary *ad interim* shall call a meeting of the board of directors, for the election from among themselves of a president and vice-president, for the appointment of a secretary and a treasurer or a secretary-treasurer, or a manager and the transaction of such other business as may be brought before the meeting. R.S.O. 1937, c. 251, s. 233.

First meeting of directors.

232.—(1) With the application for incorporation the applicants shall produce to the Provincial Secretary, certified as correct under the hands of the chairman and secretary,

Certain documents to be delivered.

(a) a copy of the minutes of the meeting including all resolutions respecting the objects of the proposed corporation, its name or style and location of its head office;

(b) a copy of the subscription book;

(c) a list showing the names and addresses of the directors elected and of the officers appointed;

(d) such further information as the Provincial Secretary may require.

(2) There shall also, for verification, be produced to the Provincial Secretary, if requested, the originals of such documents. R.S.O. 1937, c. 251, s. 234.

Production of originals.

233. The Provincial Secretary shall ascertain and determine whether the proceedings for the incorporation have been taken in accordance with the provisions of this Part, and whether the subscriptions are *bona fide* and by persons possessing property to insure. R.S.O. 1937, c. 251, s. 235.

Provincial Secretary to ascertain correctness of proceedings.

234. The letters patent or supplementary letters patent shall limit the powers of a mutual fire insurance corporation

Powers.

Rev. Stat.,
c. 183.

without guarantee capital stock incorporated under the preceding sections to undertaking contracts of fire insurance upon 'agricultural and other non-hazardous property on the premium note plan in accordance with *The Insurance Act*. R.S.O. 1937, c. 251, s. 236.

*Incorporation of Mutual Live Stock Insurance Corporations
without Guarantee Capital Stock*

Meeting to
establish
corporation.

235.—(1) Ten owners of live stock in any municipality may call a meeting of the owners of live stock to consult whether it is expedient to establish a live stock insurance corporation upon the mutual plan.

Organiza-
tion.

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance corporation without guarantee capital stock except that the determination that it is expedient to establish the corporation shall be by 30 residents of the municipality being owners of live stock in Ontario, and that the meeting for the organization of the corporation shall not be held unless 50 owners of live stock in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation which in the aggregate shall amount to not less than \$50,000. R.S.O. 1937, c. 251, s. 237.

Powers of
corporation.

236. The letters or supplementary letters patent shall limit the powers of a mutual live stock insurance corporation, incorporated under the preceding sections, to undertaking contracts of insurance against loss of live stock by fire, lightning, accident, disease or any other means, except that of design on the part of the insured or by the invasion of an enemy or by insurrection, on the premium note plan. R.S.O. 1937, c. 251, s. 238.

*Incorporation of Mutual Weather Insurance Corporations
without Guarantee Capital Stock*

Meeting to
establish
corporation.

237.—(1) Ten owners of agricultural property in any municipality may call a meeting of the owners of agricultural property to consult whether it is expedient to establish therein a weather insurance corporation upon the mutual plan.

Organiza-
tion.

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance corporation without guarantee capital stock except that the determination that it is expedient to establish the

corporation shall be by 30 residents of the municipality being owners of agricultural property in Ontario, and that the meeting for the organization of the corporation shall not be held unless 50 owners of agricultural property in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation which in the aggregate shall amount to not less than \$50,000. R.S.O. 1937, c. 251, s. 239.

238. The letters patent or supplementary letters patent shall limit the powers of a mutual weather insurance corporation without guarantee capital stock incorporated under the preceding sections, to undertaking contracts of insurance on the premium note plan on any kind of agricultural property against loss or injury arising from such atmospheric disturbances, discharges or conditions as the contract of insurance shall specify. R.S.O. 1937, c. 251, s. 240. Powers of corporation.

*Cash-Mutual Fire Insurance Corporations: Conversion of
Cash-Mutual into Joint Stock Companies*

239. No cash-mutual insurance corporation shall be incorporated unless formed with guarantee capital stock as herein-after provided. R.S.O. 1937, c. 251, s. 241. Cash-mutual corporation.

240. Sections 241 to 246 shall apply only to cash-mutual fire insurance corporations licensed pursuant to *The Insurance Act* prior to the 1st day of January, 1914. R.S.O. 1937, c. 251, s. 242. Application of ss. 241 to 246. Rev. Stat., c. 183.

241.—(1) A cash-mutual insurance corporation which now has a share or stock capital, with the assent of the Lieutenant-Governor in Council, may from time to time increase its share or stock capital to such an amount as he may deem expedient. Increasing share capital.

(2) Notice of any application to the Lieutenant-Governor in Council under this section shall be published in at least four consecutive issues of *The Ontario Gazette*. R.S.O. 1937, c. 251, s. 243. Notice of application.

242. Every subscriber to such share capital shall, on allotment of one or more shares, become a shareholder of the corporation. R.S.O. 1937, c. 251, s. 244. Subscribers to become shareholders.

243. No insurance on the wholly cash plan shall make the insured a member of the corporation, or liable to contribute or pay any sum to the corporation, or to its funds, or to any other member thereof, beyond the cash premium agreed upon, Insurance on cash plan not to constitute membership.

or give him any right to participate in the profits or surplus funds of the corporation. R.S.O. 1937, c. 251, s. 245.

Dividends.

244. The net annual profits and gains of the corporation not including therein any premium notes shall be applied in the first place to pay a dividend on the share capital not exceeding the rate of 10 per cent per annum, and the surplus, if any, shall be applied in the manner provided by the by-laws of the corporation. R.S.O. 1937, c. 251, s. 246.

When cash-mutual company may become a joint stock company.

245.—(1) A corporation which has surplus assets, not including premium notes, sufficient to reinsure all its outstanding risks may be formed into a joint stock company upon making application in the manner provided in this Act for the incorporation of joint stock insurance companies.

Approval of members and shareholders.

(2) The application shall not be made until approved by the members by a vote representing at least two-thirds of the amount of the unexpired risks, and if the corporation has share capital, by two-thirds in value of the shareholders, at an annual general meeting or at a special general meeting and by three-fourths in number of the directors of the corporation in writing signed by them.

Notice of application.

(3) Notice of the intention to make the application, and of the consideration thereof at such meeting, shall be given by advertisement in *The Ontario Gazette* and in a newspaper published in the county or district in which the head office of the corporation is situate at least once a week for four successive weeks before the holding of the meeting.

Priority of members in subscribing to stock.

(4) Every person who is a member of the corporation on the day of the meeting shall be entitled to priority in subscribing to the capital stock of the corporation for one month after the opening of the books of subscription in the ratio that the insurance held by him bears to the aggregate of the unexpired risks then in force. R.S.O. 1937, c. 251, s. 247.

Vesting of assets and preservation of liabilities.

246. Any corporation formed under section 245 shall be answerable for all liabilities of the corporation from which it has been formed, and may sue and be sued under its new corporate name, and the assets and property of the old corporation shall be vested in the new corporation from the date of its formation. R.S.O. 1937, c. 251, s. 248.

Mutual Insurance Corporations with Guarantee Capital Stock

Amount of guarantee capital.

247.—(1) A mutual or cash-mutual insurance corporation may be formed with an authorized guarantee capital stock of not less than \$300,000 nor more than \$500,000.

(2) The guarantee capital stock shall be divided into Amount of shares. shares of \$100 each. R.S.O. 1937, c. 251, s. 249.

248. The holders of the guarantee capital stock shall be Dividends. entitled to a semi-annual dividend of not more than four per cent per annum on their respective shares if there is sufficient surplus in excess of the guarantee capital stock outstanding, after providing for all liabilities and reserves, to pay such dividend. R.S.O. 1937, c. 251, s. 250; 1941, c. 13, s. 4, *amended*.

249. The guarantee capital shall be applied to the payment Payment of loss out of guarantee capital. of losses only when the corporation has exhausted its assets exclusive of uncollected premiums and when thus impaired, the directors may make good the whole or any part of it by assessments upon the contingent funds of the corporation at the date of such impairment. R.S.O. 1937, c. 251, s. 251.

250. Shareholders and members of such corporations shall Right to vote. be subject to the provisions of this Act relative to their right to vote as applied to shareholders and policyholders in mutual or cash-mutual corporations incorporated without guarantee capital stock. R.S.O. 1937, c. 251, s. 252.

251.—(1) The guarantee capital stock shall be retired Retirement of guarantee capital stock. when the profits accumulated equal two per cent of the insurance in force.

(2) The guarantee capital stock may be reduced or retired Idem. by vote of the policyholders of the corporation with the assent of the Superintendent if the net assets of the corporation, above its reinsurance reserve and all other claims and obligations, exclusive of the guaranteed capital stock, for the two years last preceding, and including the date of its last annual statement, is not less than 25 per cent of the guaranteed capital stock. R.S.O. 1937, c. 251, s. 253.

252. Notice of the intention of the corporation to reduce Notice. or retire the guarantee capital stock under section 251 shall be published in at least four consecutive issues of *The Ontario Gazette*, not less than 30 days before the meeting when such action may be taken and elsewhere if so required by the Superintendent. R.S.O. 1937, c. 251, s. 254.

253. No mutual or cash-mutual insurance corporation with Distribution of guarantee capital stock. a guarantee capital stock which has ceased to do new business shall divide among its stockholders any part of its assets or guarantee capital except income from investments until it has performed or cancelled its policy obligations and upon

proof to the Superintendent that such policy obligations have been performed or cancelled. R.S.O. 1937, c. 251, s. 255.

*Mutual and Cash-Mutual Insurance Corporations:
Their Internal Management*

Application
of ss. 255 to
270.

254. Sections 255 to 270 shall apply only to mutual and cash-mutual fire insurance corporations and to mutual live stock and mutual weather insurance corporations. R.S.O. 1937, c. 251, s. 256.

Premium
note plan.

255.—(1) Any person insured under a policy issued by a corporation shall, from the date upon which the insurance becomes effective, be deemed a member of such corporation.

Member's
liability.

(2) No member shall be liable in respect of any claim or demand against the corporation beyond the amount unpaid upon his premium note.

Members
withdrawing.

(3) Any member may, with the consent of the directors, withdraw from the corporation upon such terms as the directors may lawfully prescribe subject to *The Insurance Act*. R.S.O. 1937, c. 251, s. 257.

Rev. Stat.,
c. 183.

Annual
meeting.

256.—(1) A meeting of the shareholders and members for the election of directors shall be held within the first two months of every year at such time and place as may be prescribed by the by-laws of the corporation.

Annual
statement.

(2) Before the election the annual statement for the year ending on the previous 31st day of December shall be presented and read. R.S.O. 1937, c. 251, s. 258.

Failure
to elect
directors.

257. If an election of directors is not made on the day on which it ought to have been made the company shall not for that cause be dissolved, but the election may be held on a subsequent day, at a meeting to be called by the directors or as otherwise provided by the by-laws of the company, and in such case the directors then in office shall continue to hold office until their successors are elected. R.S.O. 1937, c. 251, s. 259.

Notice of
annual or
special
meetings.

258.—(1) Notice of every annual, general or special general meeting of the corporation shall be sent by post to every shareholder and member and shall be published in a newspaper published at or near the place where the head office is located at least seven days before to the day of the meeting.

(2) The directors may convene a general meeting of the corporation at any time. Power of directors.

(3) The directors shall, at least seven days before the day of the annual meeting, send to every member by post the annual statement for the year ending on the previous 31st day of December, which shall be certified by the auditors, and shall be in the form prescribed by the regulations passed pursuant to section 75 of *The Insurance Act*. R.S.O. 1937, c. 251, s. 260. Annual statement to be sent to members. Rev. Stat., c. 183.

259.—(1) A member of the corporation shall be entitled at all meetings of the corporation to the number of votes in proportion to the amount of insurance held by him according to the following scale: under \$1,500, one vote; \$1,500 to \$3,000, two votes; and \$3,000 or over, three votes; but no member shall be entitled to vote while in arrear for any assessment or cash payment due by him to the corporation. Voting powers of members.

(2) Where a policy on the premium note plan is made to two or more persons one only shall be entitled to vote, and the right of voting shall belong to the one first named on the register of policyholders if he is present, and if not present to the one who stands second, and so on. Where policy made to two or more persons.

(3) Where property is insured by a trustee board any member of such board or its secretary-treasurer duly appointed in writing pursuant to its resolution may vote on its behalf. R.S.O. 1937, c. 251, s. 261. Where property insured by trustee board.

260. No applicant for insurance shall be competent to vote or otherwise take part in the corporation's proceedings until his application has been accepted by the directors. R.S.O. 1937, c. 251, s. 262. Right of mere applicants.

261.—(1) No person shall be eligible to be or shall act as a director unless he is a member of the corporation and insured therein for the time he holds office, Qualification of directors.

(a) in the case of a live stock insurance corporation, to the amount of not less than \$200; and

(b) in the case of every other corporation, to the amount of not less than \$800.

(2) Where the corporation has a share capital not less than two-thirds of the directors shall also be holders of shares each to the amount of not less than \$1,000 upon which all calls have been paid. Where corporation has a share capital.

Representation of corporations. (3) The president or director of a member corporation which has the qualifications which would qualify an individual to be a director shall be eligible to be a director of the corporation.

Representation of partnerships. (4) Where a partnership has the qualifications which would qualify an individual to be a director of the corporation one member of the partnership shall be eligible to be a director of the corporation. R.S.O. 1937, c. 251, s. 263.

Number of directors. **262.**—(1) The board shall consist of six, nine, twelve or fifteen directors, as shall be determined by resolution passed at the meeting held under section 230.

Increase or decrease in number, how made. (2) The number of directors may from time to time be increased or decreased if so determined at a special general meeting of the corporation called for the purpose, or at an annual general meeting, if notice in writing of the intention to propose a by-law for that purpose at such annual meeting is given to the secretary of the corporation at least one month before the holding of the meeting; but the increased or decreased number of directors shall in any such case be six, nine, twelve or fifteen.

Notice of proposed change. (3) Where such a notice has been given to the secretary that fact shall be stated in the notice of the annual general meeting.

Copy of resolution and list of directors to be filed. (4) With the copy of the by-law filed with the Superintendent there shall be filed a list of the directors elected thereunder certified under the hands of the chairman and secretary of the meeting. R.S.O. 1937, c. 251, s. 264.

Filing by-laws for remuneration of directors. **263.** At any annual general meeting of the shareholders or members of a corporation, or at any special general meeting thereof, if such purpose was clearly expressed in the notice of the special general meeting, it shall be lawful to enact by-laws for the remuneration of the directors, and a certified copy of every such by-law shall, within seven days after its passing, be filed with the Superintendent. R.S.O. 1937, c. 251, s. 265.

Retirement of directors in rotation. **264.** One-third of the directors shall retire annually in rotation and at the first meeting of the directors, or as soon thereafter as possible, it shall be determined by lot which of them shall hold office for one, two or three years respectively, and the determination shall be entered on the minutes of the meeting. R.S.O. 1937, c. 251, s. 266.

265. At every annual general meeting thereafter one-third of the total number of directors shall be elected for a period of three years, to fill the places of the retiring directors, who shall be eligible for re-election. R.S.O. 1937, c. 251, s. 267. Annual election to fill vacancies.

266. The manager of the corporation, although he has not the qualifications required by section 261, may be a director of the corporation and may be paid an annual salary under a by-law passed as provided by section 263. R.S.O. 1937, c. 251, s. 268. Manager may be a director and be paid salary.

267.—(1) No agent or paid officer, or officer of the bankers of the corporation, or person in the employment of the corporation, other than the manager, shall be eligible to be elected as a director or shall interfere in the election of directors. Certain persons not eligible as directors.

(2) Nothing herein shall apply to a person receiving applications for insurance, or taking to his own use the customary application, survey or policy fee, not exceeding \$1.50 in respect of any one policy, or prevent a director from so doing. R.S.O. 1937, c. 251, s. 269. Fees of director taking application.

268.—(1) The election of directors shall be held and made by such shareholders and members as attend for that purpose in their proper persons, or in the case of a corporation or partnership by a director, officer or member authorized in writing to represent it. Election directors.

(2) The election shall be by ballot. Ballot.

(3) If two or more members have an equal number of votes, so that less than the whole number to be elected appear to have been chosen directors by a majority of votes, the members present shall proceed to ballot until it is determined which of the persons so having an equal number of votes shall be the director or directors. Case of a tie at an election.

(4) The directors shall at their first meeting after any such election elect by ballot from among themselves a president and vice-president, and the secretary shall preside at such election. R.S.O. 1937, c. 251, s. 270. Election of president and vice-president.

269. If a vacancy occurs among the directors during the term for which they have been elected by death, resignation, ceasing to have the prescribed qualification, insolvency, or by absence without previous leave of the directors, from three successive regular meetings which shall, *ipso facto* create such vacancy, the vacancy, in the case of a board limited to six directors, shall be filled and in the case of a board limited to a Interim vacancies in office.

number of directors, exceeding six, may be filled, until the next annual general meeting, by any person duly qualified chosen by a majority of the remaining directors as soon as may be after the vacancy occurs, and at the next annual general meeting the vacancy shall be filled for the portion of the term still unexpired. R.S.O. 1937, c. 251, s. 271.

Quorum of directors.

270.—(1) A majority of the directors shall constitute a quorum for the transaction of business, and in the case of an equality of votes at any meeting the question shall pass in the negative. R.S.O. 1937, c. 251, s. 272 (1); 1947, c. 15, s. 10.

Recording dissent.

(2) A director disagreeing with the majority at a meeting may have his dissent recorded with his reasons therefor. R.S.O. 1937, c. 251, s. 272 (2).

Security of accountants.

271.—(1) Every officer or person appointed or elected to any office concerning the receipt or proper application of money shall furnish security for the just and faithful execution of the duties of his office according to the by-laws or rules of the corporation, and any person entrusted with the performance of any other service may be required to furnish similar security, and security so furnished and then subsisting shall be produced to the auditors at the annual audit.

Minimum.

(2) The security given by the treasurer or other officer having charge of the money of the corporation shall not be less than \$3,000 and shall consist of the bond of a licensed guarantee insurance or surety company. R.S.O. 1937, c. 251, s. 273.

General

Amalgamation.

272. Subject to the approval of the agreement of amalgamation by Order in Council pursuant to *The Insurance Act*, section 11 shall apply *mutatis mutandis* to the amalgamation of two or more mutual or cash-mutual insurance corporations. R.S.O. 1937, c. 251, s. 274.

Reserve fund of mutual and cash-mutual insurance corporation.

273.—(1) Subject to subsection 5, a mutual or cash-mutual insurance corporation may form a permanent reserve fund, to consist of such part of the net profits as may from time to time be set aside by the directors for that purpose or to be made up by annual assessments for that purpose not exceeding, for any single assessment, 10 per cent on the premium notes held by the corporation, until the total of the fund reaches two per cent of the corporation insurance in force.

(2) Such fund shall be held for the security of the insured ^{Investment and income.} and shall be subject to the provisions of this Act relating to the investment of the funds of insurance companies.

(3) The income from the fund shall be included in the ^{Income part of net profits.} general receipts of the company and shall constitute a part of the net profits, if any.

(4) The fund so accumulated shall be used for the payment ^{Use of reserve fund.} of losses and expenses when the cash funds of the company in excess of an amount equal to its liabilities, including guarantee capital if any, are exhausted, and when the fund is drawn upon the allocation of profits or assessments as aforesaid may be renewed or continued until the limit of accumulation as herein provided is reached.

(5) The fund may not be reduced by the payment of ^{Reduction of fund prohibited.} dividends to shareholders or members or by reduction of current premiums below the limit of two per cent of the insurance in force hereinbefore mentioned, but it may be increased beyond such limit if the company so desires.

(6) This section shall not apply to corporations undertaking ^{Application of section.} life insurance nor to purely mutual fire insurance corporations insuring risks other than mercantile or manufacturing, upon the premium note plan, nor to purely mutual live stock or weather insurance companies, carrying on business on the premium note plan. R.S.O. 1937, c. 251, s. 275.

Incorporation of Fraternal Societies

274. The Lieutenant-Governor may, by letters patent, ^{Incorporation.} grant a charter to any number of persons, not less than 75, of the age of 21 years, five of whom petition therefor, constituting such persons and any others who have signed the membership book, and persons who thereafter become members in the fraternal society thereby created, a corporation for the purpose of undertaking any class of insurance for which a fraternal society may be licensed under *The Insurance Act* ^{Rev. Stat., c. 183.} R.S.O. 1937, c. 251, s. 276.

275. Applicants for incorporation shall immediately prior ^{Notice.} to the application publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply, and shall also, if so required, publish elsewhere notice of such intention. R.S.O. 1937, c. 251, s. 277.

276.—(1) The applicants for the incorporation of a fra- ^{Petition.} ternal society may petition the Lieutenant-Governor for the grant of a charter.

Particulars.

(2) The petition shall show,

- (a) the proposed name of the fraternal society; and
- (b) the place within Ontario where the head office of the fraternal society is to be situated;
- (c) the name in full, the place of residence and the calling of each of the applicants who are to be the first trustees or managing officers of the fraternal society; and
- (d) such other information as the Provincial Secretary may require.

Other documents.

(3) The petition shall be accompanied by the original membership book or list containing the signatures duly certified, of at least 75 persons who thereby agree to become members of the fraternal society if and when incorporated, by a copy of the proposed by-laws of the fraternal society, and by evidence that the approval of the Superintendent to the proposed by-laws and rules has been obtained. R.S.O. 1937, c. 251, s. 278.

Organization meeting.

277. Within 30 days after the issue of the letters patent, and upon due notice to all members of the society, an organization meeting of the society shall be held at which the by-laws shall be adopted and the officers of the society elected. R.S.O. 1937, c. 251, s. 279.

Incorporation of foreign fraternal society.

Rev. Stat., c. 183.

278.—(1) Where a fraternal society licensed under *The Insurance Act* has its head office elsewhere than in Ontario, the grand or other provincial body of the lodges or a majority of the lodges in Ontario may petition the Lieutenant-Governor for the grant of a charter and from the time of the issue of the letters patent, the applicants shall become a corporation for the purpose of undertaking any class of insurance for which a fraternal society may be licensed under *The Insurance Act*.

Application of s. 274.

(2) Section 274 shall apply to an incorporation under this section.

Approval of Superintendent.

(3) Before the issue of the letters patent evidence shall be produced to the Provincial Secretary that the approval of the Superintendent to the petition has been secured. R.S.O. 1937, c. 251, s. 280.

Incorporation of local branch.

279. An auxiliary or local subordinate body or branch of a licensed fraternal society may be separately incorporated by like proceedings and under the authority of section 278. R.S.O. 1937, c. 251, s. 281.

280.—(1) Subject to *The Insurance Act*, any fraternal society may, in the manner herein provided, amalgamate with any other fraternal society or transfer all or any portion of its contracts to or reinsure the same with any insurer licensed for the transaction of life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Amalgamation or reinsurance by fraternal society.

Rev. Stat., c. 183.

(2) Notwithstanding anything contained in its Act or instrument of incorporation or its constitution or laws, the governing executive authority may enter into any such agreement on behalf of the society through its principal officer and secretary; provided that no such agreement shall be binding or effective unless evidence satisfactory to the Superintendent is produced showing that the principle of amalgamation, transfer or reinsurance has been approved or that the agreement has been confirmed by a vote of the majority of the members present or duly represented at a general or special meeting of the supreme legislative or governing body of the society regularly called. R.S.O. 1937, c. 251, s. 282.

Agreement for amalgamation, etc.

281. Subsection 5 of section 11 shall apply *mutatis mutandis* to the amalgamation of two or more fraternal societies.

Confirmation of amalgamation.

Incorporation of Mutual Benefit Societies

282.—(1) A mutual benefit society may be incorporated for the purpose of undertaking any class of insurance for which a mutual benefit society may be licensed under *The Insurance Act*, and the provisions of this Part relating to fraternal societies shall apply *mutatis mutandis* to the incorporation of mutual benefit societies and to such societies when incorporated.

Incorporation.

Rev. Stat., c. 183.

(2) The proposed name and style of a mutual benefit society incorporated under this Act shall include the words "mutual benefit". R.S.O. 1937, c. 251, s. 284.

Name.

Incorporation of Pension Fund Societies and Employees' Mutual Benefit Societies

283. Sections 284 to 297 shall apply to pension fund and employees' mutual benefit societies incorporated under this Part. R.S.O. 1937, c. 251, s. 285.

Application.

284. In sections 285 to 297,

Interpretation.

- (a) "parent corporation" means the corporation any of whose officers establish a pension fund or employees' mutual benefit society under this Part;

- (b) "society" means a pension fund or employees' mutual benefit society incorporated under this Part;
- (c) "subsidiary corporation" means any corporation wherever incorporated at least 75 per cent of whose issued common shares are owned by a parent corporation as herein defined. R.S.O. 1937, c. 251, s. 286.

Charter by
letters
patent.

285. The Lieutenant-Governor may, by letters patent, grant a charter to the president, vice-president, general manager, assistant general manager, cashier, assistant cashier and inspector of any corporation legally transacting business in Ontario under any Act of Ontario, or to any two of such officials, with any other of the superior officers, constituting such persons, and the employees of such corporation and of its subsidiary corporations who join the society and those who replace them from time to time, a pension fund or employees' mutual benefit society, and such society shall be a body corporate and politic. R.S.O. 1937, c. 251, s. 287.

Application
for charter.

286.—(1) The applicants for the incorporation of a society may petition the Lieutenant-Governor for the grant of a charter.

Contents of
petition.

(2) The petition shall show,

- (a) the proposed name of the society;
- (b) the name of the parent corporation;
- (c) the place within Ontario where the head office of the society is to be situated;
- (d) the name in full and place of residence and calling of each of the applicants; and
- (e) the names, not less than five, of those who are to be the provisional directors of the society. R.S.O. 1937, c. 251, s. 288.

Notice

287. Notice of the proposed incorporation of such society shall be given by publication in *The Ontario Gazette* for four weeks and in such notice shall be given,

- (a) the exact name of the society;
- (b) the head office of the society; and
- (c) the name of the secretary thereof. R.S.O. 1937, c. 251, s. 289.

288. The provisional directors shall have power to call ^{First} the first meeting of the society, and at such meeting directors may be elected and by-laws may be passed under this Act, and upon the passing of such by-laws, a copy thereof shall be filed with the Provincial Secretary within two weeks after the passing thereof and copies of subsequent by-laws in amendment thereof, in addition thereto or diminution therefrom shall also be filed with the Provincial Secretary within two weeks from the passing thereof. R.S.O. 1937, c. 251, s. 290.

289.—(1) The affairs of the society shall be administered ^{Directors.} by a board of directors who shall be appointed or elected in such manner, in such number, with such qualifications, and for such period as are determined by the by-laws, but at the first meeting of the society to be held under this Act five directors shall be elected, subject to addition to such number if so sanctioned by the by-laws, and other officers may be appointed in such manner, with such remuneration, and under such provisions touching their powers and duties as are established by the by-laws.

(2) The board of directors may by by-law provide that the whole or any part of the fund of a society shall be entrusted ^{Management of fund by trust company.} to and managed by a trust company licensed under the laws of Ontario and may delegate to such trust company all or any of its powers and discretions relating to the custody and management of the fund. R.S.O. 1937, c. 251, s. 291.

290.—(1) In this section, “dependants” means the wives, ^{Interpretation.} husbands, and children under the age of 18 years, including adopted children, of such officers or employees. 1946, c. 10, s. 4 (2).

(2) After its incorporation under this Act every pension ^{Powers and objects of society.} fund and employees' mutual benefit society shall have the power by means of voluntary contribution or otherwise as its by-laws provide, to form a fund, and may invest, hold and administer the same and from and out of the fund may,

- (a) provide for the support and payment of pensions to officers and employees of the parent corporation and its subsidiary corporations incapacitated by age or infirmity or who cease to be employed by the parent or a subsidiary corporation;
- (b) upon the death of such officers or employees, pay pensions, annuities or gratuities to their widows and children or other surviving relatives or personal representatives in such manner as by the by-laws may be specified;

- (c) provide for the payment of benefits to officers and employees of the parent or a subsidiary corporation incapacitated by illness, accident or disability; R.S.O. 1937, c. 251, s. 292, cls. (a-c).
- (d) provide for the payment of benefits to officers and employees of the parent or a subsidiary corporation in respect of illness, accident or disability which has incapacitated dependants of such officers or employees; 1946, c. 10, s. 4 (1).
- (e) upon the death of such officers or employees, pay a funeral benefit in such manner as by the by-laws may be specified. R.S.O. 1937, c. 251, s. 292, cl. (d).

Power to
pass by-laws.

291.—(1) Every such incorporated society shall have all corporate powers necessary for the purpose of this Act and may make by-laws not contrary to law defining and regulating in the premises, and prescribing the mode of enforcement of, all the rights, powers and duties of,

- (a) the society;
- (b) the individual members thereof;
- (c) the officers and employees of the parent corporation and its subsidiary corporations;
- (d) the widows and children or other surviving relatives, or the personal representatives of such officers and employees;
- (e) the parent corporation.

Additional
by-laws.

(2) Every such incorporated society may also make by-laws as aforesaid for,

- (a) the formation and maintenance of the fund;
- (b) the management and distribution thereof generally;
- (c) the enforcement of any penalty or forfeiture in the premises;
- (d) the government and ordering of all business and affairs of the society.

Sanction of
parent
corporation.

(3) No such by-law shall have any force or effect unless it has been sanctioned by the board of directors of the parent corporation. R.S.O. 1937, c. 251, s. 293.

292. All the powers, authority, rights, penalties and forfeitures whatever in the premises, whether of the society or of the individual members thereof, or of the officers and employees thereof, or of such widows and children or other surviving relatives or personal representatives, or of the parent corporation shall be such and such only and may be enforced in such mode and in such mode only, as by such by-laws shall be defined and limited. R.S.O. 1937, c. 251, s. 294.

By-laws defining rights and remedies of beneficiaries, etc.

293. All the revenues of the society, from whatever source derived, shall be devoted exclusively to the maintenance of the society and the furtherance of the objects aforesaid of the fund and to no other purpose whatever. R.S.O. 1937, c. 251, s. 295.

Revenue.

294. The parent corporation may, and it is hereby authorized to contribute annually or otherwise to the funds of the society, by a vote of either its directors or its shareholders. R.S.O. 1937, c. 251, s. 296.

Contribution by parent corporation.

295. The interest of any member in the funds of the society shall not be transferable or assignable in any manner whatsoever by way of pledge, hypothecation, sale or security. R.S.O. 1937, c. 251, s. 297.

Prohibition against member assigning interest.

296.—(1) When it is shown to the satisfaction of the Provincial Secretary that the accounts of a society have been materially or wilfully falsified, or where there is filed in the office of the Provincial Secretary a requisition for audit bearing the signatures, addresses and occupations of at least 25 per cent of the members of the society and alleging in a sufficiently particular manner to the satisfaction of the Provincial Secretary specific fraudulent or illegal acts, or the repudiation of obligations or insolvency, the Provincial Secretary may appoint one or more accountants or actuaries who shall, under his direction, make a special audit of the books and accounts and report thereon in writing verified upon oath to the Provincial Secretary.

Special audit.

(2) Where an audit is requested the persons requesting it shall, with their requisition, deposit with the Provincial Secretary security for the costs of the audit in a sum not exceeding \$300, and where the facts alleged in the requisition appear to the Provincial Secretary to have been partly or wholly disproved by the audit he may pay the costs thereof partly or wholly out of the deposit.

Security for costs.

(3) The society, its officers and servants shall facilitate the making of such special audit so far as it is in their power, and

Duty of officers to facilitate special audit.

shall produce for inspection and examination by the person so appointed such books, securities and documents as he may require.

Expense of
special audit.

(4) Subject to subsection 2, the expense of such special audit shall be borne by the society, and the auditor's account, when approved in writing by the Provincial Secretary, shall be paid by the society forthwith. R.S.O. 1937, c. 251, s. 298.

Return to
Provincial
Secretary.

297. Every society formed under this Act shall at all times when thereunto required by the Provincial Secretary make a full return of its assets and liabilities and of its receipts and expenditures for such period and with such details and other information as the Provincial Secretary requires. R.S.O. 1937, c. 251, s. 299.

Investments

Powers of
Ontario
insurers,

298.—(1) Subject to subsections 2 to 12, an insurer incorporated under the law of Ontario may invest its funds, or any portion thereof, in the purchase of,

government
securities;

(a) the debentures, bonds, stock or other securities of or guaranteed by the Government of Canada or of or guaranteed by the government of any province of Canada, or of or guaranteed by the Government of Great Britain or by the government of any dominion, colony or dependency thereof, or of or guaranteed by the government of any foreign country or state forming a portion of such foreign country, or of any municipal or school corporation in Canada or elsewhere where the insurer is carrying on business, or guaranteed by any municipal corporation in Canada, or secured by rates or taxes levied under the authority of the government of any province of Canada on property situated in such province and collectable by the municipalities in which such property is situated; or

bonds
secured by
mortgage;

(b) (i) the bonds of any company which are secured by a mortgage or hypothec to trustees or a trust corporation or otherwise, upon real estate or other assets, of such company, or

debentures;

(ii) the debentures or other evidences of indebtedness of any company which has paid regular dividends on its preferred or on its common stocks for a term of at least five years immediately preceding the date of investment in such debentures or other evidences of indebtedness, or

- (iii) the preferred stocks of any company which ^{preferred}stock;
has paid regular dividends upon such stocks or upon its common stocks for not less than five years preceding the purchase of such preferred stocks, or the stocks of any company which are guaranteed by a company which has paid regular dividends upon its preferred or common stocks for not less than five years preceding the purchase of such guaranteed stocks, provided that the amount of stocks so guaranteed is not in excess of 50 per cent of the amount of the preferred or common stocks, as the case may be, of the guaranteeing company, or
- (iv) the common stocks of any company or cor- ^{common}stock;
poration upon which regular dividends of at least four per cent per annum or, in the case of stocks of no par value, of at least \$4 per share per annum, have been paid for the seven years next preceding the purchase of such stocks; provided further that if any such company or corporation has, pursuant to a voluntary reorganization of its capital account and without affecting the status or diminishing the value of its outstanding securities including the capital stock, substituted common shares of no par value for shares of par value, then dividends declared on such no par value stock shall be deemed to be dividends of at least \$4 per share per annum if the sum thereof is equivalent to at least four per cent of such common stock of par value and the proceeds of any additional issue of common stock made at the time of, or subsequent to, the aforesaid substitution of shares, and in such circumstances dividends of at least four per cent per annum on the common stock of par value immediately preceding the substitution shall be regarded as dividends on the no par value stock, and if any such company or corporation has in any year paid dividends on its common stock amounting to not less than \$500,000 the payment of such dividends shall be deemed to be for the purposes of this section equivalent to the payment of a dividend of four per cent for such year; or
- (c) ground rents, mortgages or hypothecs on real estate ^{mortgages;}
in Canada, or elsewhere where the insurer is carrying

on its business, provided that the amount paid for any such mortgage or hypothec shall in no case exceed 60 per cent of the value of the real estate covered thereby; or

life
policies;

(d) if the insurer undertakes contracts of life insurance, life or endowment policies or contracts issued by the insurer or by any other insurer licensed to undertake contracts of life insurance in Ontario; or

reversionary
interests.

(e) reversionary interests involving life contingencies, provided that the assets of the reversion are permissible investments under this section and provided the purchase price is less than the value of the reversion based on the British Offices' Select Life Annuity Tables, 1893, with interest at three and one-half per cent per annum,

Loans, or may lend its funds or any portion thereof on the security of,

on securities;

(f) any of the bonds, debentures, stocks or other securities mentioned in this subsection; or R.S.O. 1937, c. 251, s. 300 (1), cls. (a-f).

real estate.

(g) real estate or leaseholds for a term or terms of years or other estate or interest therein in Canada or elsewhere where the insurer is carrying on business, provided, however, that no such loan shall exceed 60 per cent of the value of the real estate or interest therein which forms the security for such loan, but this proviso shall not be deemed to prohibit an insurer from accepting as part payment for real estate sold by it, a mortgage or hypothec thereon for more than 60 per cent of the sale price of such real estate; but notwithstanding the foregoing, an insurer may lend its funds, or any portion thereof, on the security of real estate pursuant to *The National Housing Act, 1938* (Canada), or *The National Housing Act, 1944* (Canada) or any amendments thereto, or may make loans on the security of real estate or leaseholds or other estate or interest therein in excess of 60 per cent of the value aforesaid or in excess of the amount which may be loaned hereunder in accordance with *The National Housing Act, 1944* (Canada) or any amendments thereto, where the amount of the excess is guaranteed by the Lieutenant-Governor in Council or by a municipality under *The Housing Development Act, 1939*, c. 47, s. 3 (2); 1945, 2nd Sess., c. 2, s. 1; 1948, c. 13, s. 6 (1).

1938, c. 49;
1944-45,
c. 46
(Canada).

Rev. Stat.,
c. 174.

and the Lieutenant-Governor in Council may authorize the acceptance by an insurer of bonds, stocks or debentures not fulfilling the foregoing requirements of this subsection,

Other securities authorized by Lieutenant-Governor in Council.

- (h) in payment or part payment for securities sold by such insurer; or
- (i) obtained under a *bona fide* arrangement for the reorganization of a company whose securities were previously owned by such insurer; or
- (j) for the amalgamation with another company of the company whose securities were so owned,

but the bonds, stocks or debentures whose acceptance is so authorized shall be absolutely sold and disposed of within five years after the acquisition thereof, or within such further time not exceeding one year as the Lieutenant-Governor in Council shall, on report of the Minister, fix and determine unless it can be shown to the satisfaction of the Minister that the bonds, stocks or debentures whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted. R.S.O. 1937, c. 251, s. 300 (1), *part*.

(2) For the purpose of determining the eligibility as investments under subsection 1 of the preferred or common stocks of any company, which has been voluntarily reorganized without the impairment of the status or value of its securities, dividends paid on the preferred and common stocks of the company before such reorganization may be counted as dividends paid on such stocks respectively of the reorganized company. R.S.O. 1937, c. 251, s. 300 (2).

Stocks of reorganized companies.

(3) A joint stock insurance company or a cash-mutual insurance corporation may make investments or loans not hereinbefore authorized by this section, including investments in real estate or leaseholds, subject to the following provisions:

Investments and loans.

- (a) Investments in real estate or leaseholds pursuant to this subsection shall be made only for the production of income, and may be made by the company in Ontario or elsewhere where the company is carrying on business, alone or jointly with any other company, and the company may hold, maintain, improve, develop, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds, but the total investment of a company pursuant to this subsection in any one parcel of real estate or in any

one leasehold shall not exceed one-half of one per cent of the book value of the total assets of the company.

(b) This subsection shall be deemed not to enlarge the authority conferred by subsection 1 to invest in mortgages or hypothecs and to lend on the security of real estate or leaseholds.

(c) The total book value of the investments and loans made under this subsection and held by the company, excluding those that are or at any time since acquisition have been eligible apart from this subsection, shall not exceed three per cent of the book value of the total assets of the company. 1949, c. 14, s. 2 (1).

Investments
in corporate
name only.

(4) All investments and deposits of the funds of any such insurer shall be made in its corporate name, and no director or other officer thereof, and no member of a committee having any authority in the investment or disposition of its funds shall accept or be the beneficiary of, either directly or indirectly, any fee, brokerage, commission, gift or other considerations for or on account of any loan, deposit, purchase, sale, payment or exchange made by or in behalf of such insurer, or be pecuniarily interested in any such purchase, sale or loan, either as borrower, principal, co-principal, agent or beneficiary, except that if he is a policyholder he shall be entitled to all the benefits accruing under the terms of his contract.

Terms,
manner and
amount of
loans.

(5) Any loan by this section authorized to be made may be on such terms and conditions, and in such manner and at such times, and for such sums, and in such sums of repayment, whether of principal or interest or principal and interest together, as the directors from time to time determine.

Prohibitions
and
restrictions.

(6) No insurer shall,

- (a) invest in or loan its funds upon the security of its own shares or the shares of any company transacting the business of insurance; or
- (b) except as to securities of or guaranteed by the Government of Canada, or the government of any province of Canada, or a municipal corporation in Ontario, invest money in any one security or make a total investment in any one company including the purchase of its stock or other securities, the lending to it on the security of its debentures, mortgages or other assets or any part thereof, of more than five per cent of its funds; or

- (c) except as to securities of or guaranteed by the Government of Canada, or the government of any province of Canada, or a municipal corporation in Ontario, make any investment the effect of which will be that such insurer will hold more than five per cent of the total issue of stock or shares of any one company; or
- (d) loan any of its funds to any director or officer thereof, or to the wife or any child of such director or officer except, in the case of an insurer undertaking contracts of life insurance, on the security of its own policies; or
- (e) subscribe to or participate in or employ the funds of the insurer in any underwriting for the purchase or sale of securities or property of any kind, nor shall any director or officer, except for the *bona fide* purpose of protecting investments already made by the insurer, enter into any transaction for such purchase or sale on account of such corporation, jointly with any other person, firm or corporation; provided that this clause shall not be deemed to prohibit the subscription in manner aforesaid for bonds or securities permitted by this section as a *bona fide* permanent investment on behalf of any such insurer.

(7) Except for the *bona fide* purpose of protecting investments previously made by it, and subject to the approval of the Lieutenant-Governor in Council, no insurer shall, nor shall its directors or officers or any of them on its behalf, under colour of an investment of the insurer's funds, or otherwise, directly or indirectly be employed, concerned or interested in the formation or promotion of any other company; provided that nothing in this subsection shall be deemed to prohibit insurers investing their funds in securities of a new company as provided in subsection 1. R.S.O. 1937, c. 251, s. 300 (3-6).

(8) Notwithstanding anything in this Act or in any other Act, an insurer incorporated under the law of Ontario for the purpose of undertaking life insurance may cause to be formed, or may join with one or more life insurance companies in forming, one or more institutional holding companies and one or more institutional housing corporations as defined in *The National Housing Act, 1944* (Canada), and may invest its funds in shares or debentures of such holding companies, and in shares of such housing corporations to an aggregate amount which, when added to the aggregate amount invested

Interest in forming other companies.

Power to form holding companies and housing corporations under *National Housing Act, (Canada)* and to invest therein. 1944-45, c. 46 (Can.).

by such insurer under section 299 of this Act, does not exceed five per cent of its total assets in Canada allowed by the Superintendent. 1946, c. 10, s. 5.

Additional security to secure repayment of liabilities.

(9) Any insurer may take any additional securities of any nature to further secure repayment of any liability thereto, or to further secure the sufficiency of any of the securities in or upon which such insurer is by this section authorized to invest or lend any of its funds.

By-laws to prevail.

(10) Where the constitution, by-laws or rules of an insurer prescribe the securities in which its funds may be invested, nothing in this section shall enlarge the power of investment.

Disposal of unauthorized investments.

(11) The Superintendent may request any insurer to dispose of and realize any of its investments acquired after the 1st day of May, 1928, and not authorized by this section, and such insurer shall within 60 days after receiving such request absolutely dispose of and realize such investments, and if the amount realized therefrom falls below the amount paid by such insurer for such investments the directors of the insurer shall be jointly and severally liable for the payment to such insurer of the amount of the deficiency; provided that if any director present when any such investment is authorized, forthwith, or if any director then absent, within 24 hours after he becomes aware of such investment and is able to do so, enter on the minutes of the board of directors his protest against such investment, and, within eight days thereafter, gives notice of his protest by registered letter to the Superintendent, such director shall thereby and not otherwise exonerate himself from such liability. R.S.O. 1937, c. 251, s. 300 (7-9).

Directors' liability.

Interpretation.

(12) In subsection 1, "insurer" shall be deemed to mean only joint stock insurance companies, fraternal societies, mutual insurance corporations with guarantee capital stock and cash-mutual insurance corporations; all other insurers may invest their funds in any securities in which, under *The Trustee Act*, trustees may invest trust funds. R.S.O. 1937, c. 251, s. 300 (10); 1949, c. 14, s. 2 (2); 1950, c. 8, s. 2.

Rev. Stat., c. 400.

Investment of funds in housing projects.

299. An insurer incorporated under the law of Ontario for the purpose of undertaking life insurance may, in addition to investments it may make by lending on the security of or by purchasing mortgages, charges or hypothecs upon real estate pursuant to the provisions of *The National Housing Act*, 1944 (Canada), or any amendments thereto, invest its funds to an aggregate amount not exceeding five per cent of its total assets in Canada allowed by the Superintendent in

1944-45, c. 46 (Can.).

any other classes or types of investments pursuant to the said Act, or any amendments thereto, including the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such land and buildings. 1949, c. 14, s. 3.

Forfeiture for Non-user or Discontinuance

300.—(1) If an insurer incorporated under the law of Ontario, whether under this Act or under any general or special Act, does not go into actual *bona fide* operation within two years after incorporation, or if, after an insurer has undertaken contracts, such insurer discontinues business for one year, or if its licence remains suspended for one year, or is terminated otherwise than by effluxion of time and is not renewed within the period of sixty days, the insurer's corporate powers shall *ipso facto* cease and determine, except for the sole purpose of winding up its affairs, and in any action or proceeding where such non-user is alleged, proof of user shall be upon the insurer, and the Supreme Court upon the petition of the Attorney-General, or of any person interested, may limit the time within which the insurer shall settle and close its accounts, and may for that purpose or for the purpose of liquidation generally appoint a receiver.

When charter to be forfeited for non-user or discontinuance.

(2) No such forfeiture shall affect prejudicially the rights of creditors as they exist at the date of the forfeiture. R.S.O. 1937, c. 251, s. 301.

Rights of creditors.

Auditors, By-laws and Published Statements

301.—(1) The report of the auditors of a joint stock insurance company or a cash-mutual insurance corporation required to be made by section 117 shall also state,

Report of auditors of joint stock insurance company.

- (a) that they have audited the books of the company and have verified the cash, bank balance and securities;
- (b) in the case of companies transacting other than life insurance, that they have checked the reserve of unearned premiums and that it is calculated as required by *The Insurance Act*;
- (c) that they have examined the provision for unpaid claims and that in their opinion it is adequate;
- (d) that the balance sheet does not show as assets unpaid balances owing by agents or other insurers whose accounts have not been verified within the next preceding 90 days;

Rev. Stat., c. 183.

Rev. Stat.,
c. 183.

(e) that the balance sheet does not include as assets items prohibited by *The Insurance Act* from being shown in the annual statements required to be filed thereunder;

(f) that, after due consideration, they have formed an independent opinion as to the position of the company and that, with their independent opinion so formed, and according to the best of their information and the explanations given them, they certify that in their opinion, the balance sheet sets forth fairly and truly the state of affairs of the company; and

(g) that all transactions of the company that have come within their notice have been within its powers.

Verification.

(2) The sending of a notice by the auditors to an agent or insurer with a statement of account made up to date, with a request for a direct reply confirming the balance owing, shall be deemed to be verification within the meaning of clause *d* of subsection 1. R.S.O. 1937, c. 251, s. 302.

Delivery of
by-laws to
Superin-
tendent.

302. Every insurer shall deliver to the Superintendent within one month after passing thereof, a certified copy of its by-laws and of every repeal or addition to or amendment or consolidation thereof. R.S.O. 1937, c. 251, s. 303.

Balance
sheets and
statements.

303. A copy of every balance sheet or other statement published or circulated by an insurer, purporting to show its financial condition, shall be mailed or delivered to the Superintendent concurrently with its issue to its shareholders or policyholders, or to the general public. R.S.O. 1937, c. 251, s. 304.

Offence.

304. Every person who fails to comply with the provisions of sections 301, 302 and 303 shall be deemed to be guilty of an offence under *The Insurance Act*. R.S.O. 1937, c. 251, s. 305.

Rev. Stat.,
c. 183.

Directors of
joint stock
insurance
company,
qualifi-
cations.

305. Subject to section 306, no person shall be eligible to become or shall be elected a director of a joint stock insurance company unless he is of the full age of 21 years and holds in his own name and for his own use and absolutely in his own right shares of the capital stock of the company upon which at least \$1,000 has been paid in and has paid in cash all calls and instalments due thereon and all liabilities incurred by him to the company. R.S.O. 1937, c. 251, s. 306; 1940, c. 5, s. 2.

306.—(1) A joint stock life insurance company may, ^{Shareholders' directors; policyholders' directors.} by by-law, provide that the affairs of the company shall be managed by a board of directors of whom a specified number, herein called shareholders' directors, shall be elected by the shareholders of the company, and a specified number, herein called policyholders' directors, shall be elected by those persons, herein called participating policyholders, whose lives are insured under a participating policy or participating policies of the company for at least \$2,000 upon which no premiums are due, whether or not any such person is a shareholder of the company.

(2) A by-law passed pursuant to subsection 1 shall provide ^{Number of directors;} for the election of not less than nine nor more than 21 directors, of whom not less than one-third shall be policyholders' directors, and any vacancy occurring in the board of directors ^{filling vacancies.} may be filled for the remainder of the term by the directors.

(3) Participating policyholders shall be entitled to attend ^{Participating policyholders, right to vote.} and vote in person and not by proxy at all general meetings of the company but as such shall not be entitled to vote for the election of shareholders' directors; provided that this section shall not confer rights or impose liabilities on such participating policyholders in any liquidation of the company.

(4) Every holder of a participating policy or participating ^{Policyholders, director, qualifications.} policies of the company for at least \$4,000 exclusive of bonus additions, upon which no premiums are due, who is not a shareholder, and who has paid premiums on such policy or policies for at least three full years shall be eligible for election as a policyholders' director.

(5) Every such life insurance company shall have a fixed ^{Annual meeting.} time in each year for its annual meeting and such time shall be printed in prominent type on each renewal receipt issued by the company, and in addition to all other notices required to be given by this Act, it shall give 15 days notice of such meeting in two or more daily newspapers published at or as near as may be to the place where the company has its head office. 1940, c. 5, s. 3, *part*.

Winding Up

307.—(1) The provisions of Part XIV relating to the ^{Application of Part XIV.} winding up of companies shall apply to insurers incorporated under or subject to this Act except where inconsistent with this Part.

Interpre-
tation.

(2) Where the company, corporation or society is not constituted exclusively or chiefly for insurance purposes and the insurance branch and fund are completely severable from every other branch and fund of the company, corporation or society, the word "insurer" for the purposes of the following sections, means only the insurance branch of the company, corporation or society. R.S.O. 1937, c. 251, s. 307.

Notice to
Superin-
tendent.

308.—(1) When an insurer incorporated under or subject to the law of Ontario proposes to go into voluntary liquidation, at least one month's notice shall be given to the Superintendent of the intention to voluntarily wind up the insurer.

Contents
of notice.

(2) The notice shall state the date at which contracts are to cease to be taken by the insurer also the name and address of the insurer's liquidator or the intention of the insurer to apply on a stated date for the appointment of a liquidator.

Consent of
Superin-
tendent to
voluntary
winding up.

(3) No fraternal society to which this Act applies shall go into voluntary liquidation or otherwise arrange for the winding up of its affairs without the written consent of the Superintendent. R.S.O. 1937, c. 251, s. 308.

Unearned
premium.

309. Where any insurer is wound up each person contracted with on the cash plan shall be entitled to a refund from the insurer of the unearned proportion of the cash premium calculated from the date at which the insurer, according to the notice, ceased to undertake contracts; but this shall not affect any other remedy which such person has against the insurer. R.S.O. 1937, c. 251, s. 309.

Liquidator
may reinsure
policy-
holders.

310.—(1) Upon a winding up under this Act, the liquidators may without the consent of the policyholders, arrange for the reinsurance of the contracts of its policyholders in some duly licensed insurer, and for the purpose of securing such reinsurance, the entire assets of the insurer in Ontario shall be available except the amount required to pay the claims of the preferred creditors, the amount of the costs of liquidation, and the amount required to pay claims accrued under the insurers' policy contracts, of which notice has been received by the insurer prior to the date such reinsurance is effected, all of which payments shall be a first charge upon the assets of the insurer, and creditors of the insurer other than the policyholders and such preferred creditors shall be entitled to receive a dividend on their claims only if such assets are more than sufficient to provide for the payments aforesaid and for the reinsurance of the contracts of the policyholders.

(2) If such assets of the insurer are insufficient to provide for the payment specified in subsection 1 and for the reinsurance of the contracts of the policyholders in full, the reinsurance may be effected for such a percentage of the full amount of the contracts as such assets will secure.

Partial
reinsurance
if assets
insufficient.

(3) No contract of reinsurance made in pursuance of this section shall become effective until approved by the Court and by the Superintendent.

Approval by
Court and
Superin-
tendent.

(4) In the event of the reinsurance provided for by this section being effected, the Court may in its discretion declare that any section of Part XIV shall not apply, and on such declaration being made the section so specified shall cease to apply to any of the parties concerned in the liquidation.

Application
of Part XIV.

(5) If the liquidator fails to secure the reinsurance of the policyholders in full or for a percentage thereof as hereinbefore provided, such assets shall, subject to the payment of the costs of liquidation and the preferred claims, be available to pay the claims of the policyholders calculated as at the date of winding up in the manner provided by *The Insurance Act*.

Employment
of assets
where com-
plete reinsur-
ance not
effected.

Rev. Stat.,
c. 183.

(6) Nothing in this section shall prejudice or affect the priority of any mortgage lien or charge upon the property of the insurer. R.S.O. 1937, c. 251, s. 310.

Secured
creditors not
affected.

311.—(1) Where, in the case of a fraternal society endowment or expectancy insurance is transacted and there exists an endowment fund separate and distinct from the life insurance fund then by resolution duly passed at a general meeting, ordinary or special, after at least one month's notice of such intended resolution, the society may determine that the endowment or expectancy shall be discontinued, and that the endowment or expectancy fund shall be distributed *pro rata* among the members then in good standing who are contributing to such fund according to the total contribution of such member.

Resolution
for distri-
bution of
endowment
funds.

(2) After the resolution has been assented to by the Superintendent and filed with the Provincial Secretary, the executive officers may proceed to ascertain the persons intended to rank upon the fund and may distribute the fund among those so entitled and such distribution shall discharge the society and all executive officers thereof from all further or other liability in respect of such fund and of the endowment or expectancy contracts undertaken by the society.

Distribution
of funds,
effect of.

(3) If all the members interested in the endowment or expectancy fund are also interested as holders of life insurance

Conversion
into life
insurance
fund.

contracts, the general meeting, instead of determining that the endowment or expectancy fund shall be distributed, may determine that such fund shall be converted into or merged in a life insurance fund and after the resolution has been assented to and filed as provided in subsection 2 the endowment or expectancy fund shall become and be a life insurance fund. R.S.O. 1937, c. 251, s. 311.

Renewal or continuance of licence for winding-up purposes.

Rev. Stat., c. 183.

312. Notwithstanding anything in this Act or in *The Insurance Act*, where an insurer is being wound up voluntarily the Superintendent may renew or extend the licence of any insurer for the purpose of its winding up. R.S.O. 1937, c. 251, s. 312.

Winding up under order of the court.

Rev. Stat., c. 183.

313.—(1) In addition to the provisions of the preceding sections an insurer may be wound up by order of the Supreme Court whenever its licence has expired or been withdrawn under *The Insurance Act*, and has not been renewed after such expiry or withdrawal.

When winding up commences.

(2) Where an insurer is wound up under subsection 1 the winding up shall be deemed to commence at the beginning of the day from which the licence of the insurer expired or was cancelled. R.S.O. 1937, c. 251, s. 313.

Books, etc., of corporation as evidence.

314. The books, accounts and documents of an insurer and the entries in the books of its officers or liquidators shall be *prima facie* evidence of the matters to which they relate as between an alleged debtor or contributory and the insurer. R.S.O. 1937, c. 251, s. 314.

FORM 1

(Section 4 (2))

PETITION

TO HIS HONOUR.....

 Lieutenant-Governor of the Province of Ontario;

THE PETITION OF.....

 humbly sheweth as follows:

1. Your petitioners are desirous of obtaining Letters Patent under *The Companies Act*, constituting your petitioners and such others as may become shareholders in the company thereby created, a body corporate and politic under the name of
 or such other name as appears to Your Honour to be proper.

2. Your petitioners have satisfied themselves that the corporate name under which incorporation is sought is not on any public ground objectionable, and that it is not that of any known company, incorporated or unincorporated, or of any partnership or individual, or any name under which any known business is being carried on, or so nearly resembling the same as to deceive.

3. Your petitioners have satisfied themselves that no public or private interest will be prejudicially affected by the incorporation of your petitioners.

4. Each of your petitioners is of the full age of 21 years.

5. The object for which incorporation is sought is to.....

6. The head office of the company will be at.....

7. The amount of the capital stock of the company is to be.....
 dollars.

8. The stock is to be divided into.....shares of
dollars each.

9. The said.....

 are to be the provisional directors of the company.

10. By subscribing therefor in a Memorandum of Agreement, duly executed in duplicate, with a view to the incorporation of the company, your petitioners have taken the amount of stock set opposite their respective names, as follows:

Petitioners	Amount of stock subscribed for
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....

YOUR PETITIONERS therefore pray that Your Honour may be pleased to grant Letters Patent constituting your petitioners and the persons who have become subscribers to the Memorandum of Agreement and such other persons as may become shareholders in the company, a body corporate and politic for the due carrying out of the undertaking.

And your petitioners, as in duty bound, will ever pray, etc.

Date at.....this.....day of....., 19.....

Signatures of witnesses

.....

Signatures of petitioners

.....

R.S.O. 1937, c. 251, Form 1.

FORM 2

(Section 4 (3))

(To be executed in duplicate; one duplicate to be deposited in the office of the Provincial Secretary)

.....
(Name of Company)

MEMORANDUM OF AGREEMENT AND STOCK-BOOK

WE, the undersigned, hereby severally covenant and agree each with the others to become incorporated as a company under the provisions of *The Companies Act* under the name of.....
or such other name as the Lieutenant-Governor may give to the company, with a capital of dollars,
divided into..... shares of..... dollars each.

AND WE hereby severally subscribe for and agree to take the respective amounts of the capital stock of the said company set opposite our respective names as hereunder written, and to become shareholders in the company to the said amounts.
Witness our hands and seals.

Name of Subscriber	Seal	Amount of Subscription	Date and place of Subscription		Residence of Subscriber	Name of Witness
			Date	Place		

FORM 3

(Section 6 (2))

PETITION FOR INCORPORATION WITHOUT SHARE CAPITAL

To His Honour.....
....., etc.
Lieutenant-Governor of the Province of Ontario:

THE PETITION OF.....
.....
.....
humbly sheweth as follows:

1. Your petitioners are desirous of obtaining Letters Patent under *The Companies Act*, constituting your petitioners and such others as may become members of the corporation thereby created, a body corporate and politic without share capital, under the name of.....
.....
or such other name as appears to Your Honour to be proper.

2. Your petitioners have satisfied themselves that the corporate name under which incorporation is sought is not on any public ground objectionable, and that it is not that of any known company, incorporated or unincorporated, or of any partnership or individual, or any name under which any known business is being carried on, or so nearly resembling the same as to deceive.

3. Your petitioners have satisfied themselves that no public or private interest will be prejudicially affected by the incorporation of your petitioners.

4. Each of your petitioners is of the full age of 21 years.

5. The object for which incorporation is sought is to.....
.....
.....

6. The said.....
.....
are to be the provisional directors of the corporation.

7. Your petitioners have signed a memorandum of agreement in duplicate, setting out the purposes and objects of incorporation and provisions for administering the affairs of the corporation, and have undertaken that the said corporation shall be carried on without the purposes of gain for its members, and that any profits or other accretions to the corporation shall be used in promoting its objects.

YOUR PETITIONERS therefore pray that Your Honour may be pleased to grant Letters Patent constituting your petitioners and such others as have become subscribers to the Memorandum of Agreement and such persons as may thereafter become members of the corporation in the company, a body corporate and politic for the due carrying out of the undertaking.

And your petitioners, as in duty bound, will every pray, etc.

Dated at.....this.....day of....., 19....

Signatures of witnesses	<div style="display: flex; justify-content: space-between; padding: 0 10px;"> <div style="width: 45%; text-align: left;"> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> </div> <div style="width: 45%; text-align: right;"> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> </div> </div>	Signatures of petitioners
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R.S.O. 1937, c. 251, Form 3.

FORM 4

(Section 6 (3))

MEMORANDUM OF AGREEMENT

Memorandum of Agreement of the.....,
made and entered into this.....day of....., 19.....

1. We, the undersigned, hereby severally covenant and agree each with the others to become incorporated under *The Companies Act* as a corporation without share capital for the purposes and objects following:
(*Setting out the objects of the corporation*)

2. The subscribers shall be the first members, and it shall rest with the directors to determine the terms and conditions on which subsequent members shall from time to time be admitted.

3. The following shall be the first directors of the corporation:

.....
.....
.....

4. The first directors shall hold office until the first general meeting, and unless otherwise provided by the members in general meeting, the subsequent directors shall hold office for one year, or until their successors are appointed.

5. Any member may transfer his interest in the corporation by instrument in writing, signed both by the transferor and transferee and duly registered with the corporation.

6. The first general meeting shall be held at such time, not being more than two months after incorporation, and at such place as the directors may determine.

7. Subsequent general meetings shall be held at such time and place as may be prescribed by the corporation in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the fourth Wednesday in January in every year, at such place as may be determined by the directors.

8. The directors may, whenever they think fit, and they shall upon a requisition made in writing by any five or more members, convene a general meeting.

9. The requisition shall express the object of the meeting proposed to be called, and shall be left at the office of the corporation.

10. Upon the receipt of such requisition the directors shall forthwith convene a general meeting, and if they do not convene the same within twenty-one days of the receipt of the requisition, the requisitionists or any other five members may themselves convene a meeting.

11. At least ten days notice of any general meeting, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in the manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the corporation in general meeting, but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

12. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened upon the requisition of the members shall be dissolved, and in any other case, it shall stand adjourned to the same day in the following week, at the same hour and place, and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

13.—(1) The chairman (if any) of the directors shall preside as chairman at every general meeting of the corporation.

(2) If there is no such chairman, or if at any meeting he is not present, the members present shall choose one of their number to be chairman of the meeting.

14. The chairman may, with the consent of the meeting, adjourn it from time to time and from place to place, but no business shall be transacted at any adjourned meeting other the business left unfinished at the meeting from which the adjournment took place.

15. At any general meeting, unless a poll is demanded, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the minutes of proceedings of the corporation shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

16. If a poll is demanded, the same shall be taken in such manner as the chairman directs, and the result shall be deemed to be the resolution of the corporation in general meeting.

17. With the consent in writing of all the members, a general meeting may be convened on shorter notice than ten days and in any manner which such members think fit.

18. The presence in person or by proxy of either at least thirty members or of one-fourth of the members shall be necessary to constitute a quorum at general meetings.

19. Until otherwise determined by special resolution, every member shall have one vote.

20. Votes may be given either personally or by proxy, and the instrument appointing a proxy shall be in writing under the hand of the appointer, or if such appointer is a corporation under its common seal, and shall be attested by at least one witness, and no person shall be appointed a proxy who is not a member of the corporation.

21. A resolution signed by all the directors shall be as valid and effectual as if it had been passed at a general meeting of the directors duly called and constituted.

22. The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting shall be determined by the corporation in general meeting.

23. The affairs of the corporation shall be managed by the directors, who may pay all expenses of the incorporation and may exercise all such powers of the corporation as are not by *The Companies Act* or by this memorandum required to be exercised by the corporation in general meeting, subject, nevertheless, to any regulations of this memorandum, to

the provisions of that Act, and to such regulations not inconsistent with such regulations or provisions as may be prescribed by the corporation in general meeting; but no regulation made by the corporation in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made, and the continuing directors may act notwithstanding any vacancy in their body.

24.—(1) The office of director shall be vacated,

- (a) if he holds any other office or place of profit under the corporation;
- (b) if he is concerned in or participates in the profits of any contract with the corporation.

(2) No director shall vacate his office by reason of his being a shareholder or member of any corporation which has entered into any contract with or done any work for the corporation of which he is a director, but he shall not vote in respect of such contract or work, and if he votes his vote shall not be counted.

25. A retiring director shall be eligible for re-election.

26. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled, the meeting shall stand adjourned till the same day in the next week, at the same hour and place and if at such adjourned meeting the places of the vacating directors are not filled, the vacating directors, or such of them as have not had their places filled shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled.

27. The corporation may, from time to time, in general meeting increase or reduce the number of directors, and may also determine in what rotation any such increased or reduced number is to go out of office.

28. Any casual vacancy occurring in the board of directors may be filled by the directors but any person so chosen shall retain his office so long as the vacating director would have retained the same if no vacancy had occurred.

29. The corporation in general meeting, by a resolution, of which notice has been given in the notice calling the meeting, may remove any director before the expiration of his period of office, and may, by resolution, appoint another person in his stead, and the person so appointed shall hold office during such time as the director in whose place he was appointed would have held the same if he had not been removed.

30.—(1) The directors may meet for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business.

(2) Questions arising at any meeting shall be decided by a majority of votes, and in case of an equality of votes, the chairman shall have a second or casting vote.

(3) A director may at any time summon a meeting of the directors.

31. The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present, the directors present shall choose one of their number to be chairman of the meeting.

32. The directors, by resolution entered upon the minutes, may delegate any of their powers to committees consisting of such member or members of their body as they think fit, and a committee so formed shall, in the exercise of its powers so delegated, conform to any regulations that may be imposed on it by the directors.

33. A committee may elect a chairman, and if no such chairman is elected, or if he is not present, the members present shall choose one of their number to be chairman of the meeting.

34. A committee may meet and adjourn as it thinks proper, and questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

35. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such director or person so acting, or that they, or any of them, were disqualified, shall be as valid as if every such person had been duly appointed and was qualified to be a director; but it shall not be necessary to give notice of a meeting of the directors to a director who is not in Ontario.

In testimony whereof we have hereunto set our hands and affixed our seals.

R.S.O. 1937, c. 251, Form 4.

FORM 5

(Section 52 (4))

INSTRUMENT OF PROXY

.....
(Name of Company)

I,, of,
a shareholder of,
(Name of Company)
hereby appoint..... of.....
as my proxy to vote for me and on my behalf at the.....
.....meeting of the company, to be
held on the.....day of....., 19....., and at any
adjournment thereof.

Dated this.....day of....., 19.....

NOTE:

Where the appointer is a corporation, or an officer of it, the necessary changes must be made in the form.

Where the instrument is signed by a corporation, its common seal must be affixed.

R.S.O. 1937, c. 251, Form 5.

FORM 6

(Section 105 (2))

FORM OF AFFIDAVIT

Province of Ontario
County of

In the matter of
(Insert name of company)

I,, of the.....of.....,
in the.....of.....,
make oath and say:

1. That I am a shareholder (or creditor) of the above-named company.

*(Where the shareholder or creditor is a corporation, indicate
office and authority of deponent in paragraph 1)*

2. That I am making application to make a list of the shareholders
of the above-named company.

3. That I require the list of shareholders only for purposes connected
with the above-named company.

4. That the said list of shareholders and the information contained
therein will be used only for purposes connected with the above-named
company.

Sworn, etc.

A Commissioner, etc.

1946, c. 10, s. 6.

CHAPTER 60

The Companies Information Act

1. In this Act,

Interpre-
tation.

(a) "company" or "corporation" includes any public association, corporation, company or other incorporated organization, whether acting as a trustee or not;

(b) "security" means security as defined in *The Securities Act*. R.S.O. 1937, c. 253, s. 1, cls. (a, b). Rev. Stat., c. 351.

2.—(1) Every company of a class prescribed by the regulations, before the sale in Ontario of any issue of securities or any part thereof, other than an issue in respect of which a prospectus has been filed, shall file with the Provincial Secretary a prospectus verified as he may direct, together with the prescribed fee. Filing of prospectus.

(2) Where a company fails to comply with subsection 1, every director and officer of the company and any person acting as a representative of an extra-provincial company shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500, and in default of payment thereof to imprisonment for a term of not more than three months. 1947, c. 16, s. 2. Penalty.

3.—(1) On or before the 1st day of June in each year, without notice or demand to that effect, every corporation incorporated under the laws of Ontario and every other corporation having its head or other office or doing business or any part thereof in Ontario shall, unless licensed or registered under *The Insurance Act* or *The Loan and Trust Corporations Act*, or of a class exempted by the regulations, make out, verify and deliver to the Provincial Secretary as hereinafter required, together with the prescribed fee, a detailed return containing as of the 31st day of March next preceding, correctly stated, the following information and particulars: 1947, c. 16, s. 3 (1). Annual returns, Rev. Stat., cc. 183, 214.

(a) the corporate name;

contents
of return;

(b) the jurisdiction under which incorporated;

- (c) (i) manner of incorporation, whether by special Act, letters patent, registration or otherwise,
- (ii) the date of incorporation;
- (d) whether the corporation is carrying on business;
- (e) concise and general statement of the business of the corporation actually being carried on;
- (f) (i) number of directors authorized,
- (ii) names and residence addresses, giving street and number, of the directors;
- (g) name and residence address, giving street and number, of the president, secretary, treasurer and manager;
- (h) location of head office giving street and number where possible;
- (i) the date upon which the last annual meeting was held;
- (j) total amount of bond or debenture debt authorized, amount outstanding and rate of interest;
- (k) detailed statement of real estate in Ontario owned or held on behalf of the corporation,

corporation
with share
capital;

and in the case of a corporation having share capital, in addition,

- (l) (i) particulars of authorized share capital stating number and class of shares, whether with or without par value and the par value, if any,
- (ii) date of by-law, if any, authorizing issuance of shares as preference shares and stating number of shares so authorized;
- (m) number of each class of shares issued and allotted and the amount paid thereon;
- (n) (i) number and class of shares upon which the whole amount has not been called up,
- (ii) the amount called up on each such share,

- (iii) the total amount of calls unpaid;
- (o) total number of each class of shares forfeited and amount paid thereon at the date of forfeiture;
- (p) number and class of shares, if any, issued since the date of the last annual return otherwise than for cash, the extent to which the same are paid showing severally the amounts paid for services, commissions or assets;
- (q) if share warrants are authorized and issued, state number and class of shares represented thereby;
- (r) number of preference shares redeemed,

and where the corporation is subject to Part XI of *The Companies Act*, in addition, corporation subject to Rev. Stat., c. 59, Part XI;

- (s) the date or dates upon which by-laws authorizing the issue of shares at a discount were passed and confirmed;
- (t) whether a verified copy of the by-laws authorizing the issue of shares at a discount, if any, has been transmitted to or filed in the office of the Provincial Secretary;
- (u) the number of shares issued at a discount or premium;
- (v) the rate at which the shares were issued,

and where the corporation is an extra-provincial corporation and licensed to do business within Ontario, in addition, extra-provincial corporations.

- (w) the name and office address of attorney for service in Ontario;
- (x) the name and office address of the chief officer or manager in Ontario;
- (y) location of principal office in Ontario;
- (z) estimated amount of capital used in Ontario.

O.Reg. 28/49.

(2) A duplicate of the return with the affidavit of verification shall be posted up in a conspicuous position in the head or principal office in Ontario of the corporation on or before Posting up.

the 2nd day of July in each year, and may be inspected by any shareholder or creditor of the corporation, and the corporation shall keep the same so posted until another return is posted up under this Act.

Verification. (3) The return shall be verified by the affidavit of the president or, in his absence, of a director of the corporation.

Penalty. (4) Where a corporation fails to comply with this section, every director and officer of the corporation and any person acting as a representative of an extra-provincial corporation shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$20 for each day of such default and in default of payment thereof to imprisonment for a term of not more than three months.

Corporations incorporated before July 1st, 1907, etc.
7 Edw. VII, c. 34.
(5) Corporations incorporated before the 1st day of July, 1907, under any Act repealed by *The Ontario Companies Act, 1907*, except chapter 191 of the Revised Statutes of Ontario, 1897 and Acts consolidated therewith for which that Act was substituted, shall make such returns under this section as are required from corporations without share capital. R.S.O. 1937, c. 253, s. 3 (2-5).

Summary under *Companies Act* (Can.) in lieu of return.
1934, c. 33 (Can.).
(6) Any company required to file a summary under section 121 of *The Companies Act, 1934* (Canada), may deliver to the Provincial Secretary a duplicate of such summary, signed and verified as prescribed in the said section 121, in lieu of the return under subsection 1 and shall pay the fee prescribed for such return.

Enlargement of time and exemption of fee.
(7) The Provincial Secretary may in his discretion and for good cause enlarge the time for delivering any such return or summary and may grant an exemption in whole or in part from the payment of the fee. 1947, c. 16, s. 3 (2).

Provincial Secretary may require returns.
4.—(1) The Provincial Secretary may at any time by notice require any company to make a return upon any subject connected with its affairs within the time specified in the notice, and on default in making such return every director of the company and any person acting as a representative of the company in Ontario shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$20 for each day of such default, and in default of payment thereof to imprisonment for a term of not more than three months.

Audit and report.
(2) The Provincial Secretary, on the application of any ten shareholders each of whom has been a shareholder for not

less than six months immediately preceding the date of the application, or on the application of more than one-third of the total number of shareholders, may appoint an accountant to audit the books of the company and to report thereon.

(3) The expenses incidental to the audit shall be defrayed Expenses. by the shareholders applying for the same or the officers of the company or the company itself, as the Provincial Secretary directs. R.S.O. 1937, c. 253, s. 4.

5.—(1) Where a prospectus, notice or other circular invites subscriptions for shares in, debentures, debenture stock or other securities of a company, every person who is a director of the company at the time of the issue of the prospectus, notice or other circular, and every person who having authorized such naming of him is named in the prospectus, notice or other circular as a director of the company, or as having agreed to become a director of the company, either immediately or after an interval of time, and every promoter of the company and every person who has authorized the issue of the prospectus, notice or other circular shall be liable to pay compensation to all persons who subscribe for any shares, debentures, debenture stock or other securities on the faith of the prospectus, notice or other circular for the loss or damage they may have sustained by reason of any untrue statement in the prospectus, notice or other circular or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved that, Liability of directors, promoters, etc., for untrue statements on soliciting subscriptions.

- (a) having consented to become a director of the company he withdrew his consent before the issue of the prospectus, notice or other circular, and that the prospectus, notice or other circular was issued without his authority or consent; or
- (b) the prospectus, notice or other circular was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued; or
- (c) after the issue of the prospectus, notice or other circular and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of his withdrawal and of the reason therefor; or
- (d) with respect to every untrue statement not purporting to be made on the authority of an expert,

or of a public official document or statement, that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true; or

- (e) with respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation, but the director, person named as director, promoter, or person who authorized the issue of the prospectus, notice or other circular, shall be liable to pay compensation as aforesaid, if it is proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it; or
- (f) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document.

Interpre-
tation.

(2) In this section, "promoter" means a promoter who was a party to the preparation of the prospectus, notice or other circular or of the portion thereof containing such untrue statement, but shall not include any person by reason of his acting solely in a professional capacity for persons engaged in procuring the formation of the company. R.S.O. 1937, c. 253, s. 5.

Taking of
affidavits.

6. Any affidavit required under this Act may be taken before any person having authority to administer oaths or before any person specially authorized for that purpose by the Lieutenant-Governor in Council, but any person so specially authorized shall not charge any fee therefor. R.S.O. 1937, c. 253, s. 6.

Regulations.

7. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing the class or classes of companies which shall file a prospectus under section 2;
- (b) prescribing the information to be contained in prospectuses;

- (c) prescribing the fees payable upon the filing of prospectuses;
 - (d) exempting any class or classes of corporations from filing returns under section 3;
 - (e) prescribing the fees payable on the filing of returns under section 3;
 - (f) notwithstanding subsection 1 of section 3, specifying the information and particulars to be contained in the return mentioned therein;
 - (g) notwithstanding subsection 1 of section 3, specifying the date for the filing of the return and the date as of which the information and particulars are to be given in the return mentioned therein;
 - (h) notwithstanding subsection 3 of section 3, specifying the persons who may verify and the method of verifying the return mentioned therein. 1947, c. 16, s. 4; 1948, c. 14, s. 1.
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CHAPTER 61

The Conditional Sales Act

1. In this Act, "goods" includes wares and merchandise. Interpretation.
R.S.O. 1937, c. 182, s. 1.

2.—(1) Where possession of goods is delivered to a purchaser, or a proposed purchaser or a hirer of them, in pursuance of a contract which provides that the ownership is to remain in the seller or lender for hire until payment of the purchase or consideration money or part of it, as against a subsequent purchaser or mortgagee claiming from or under the purchaser, proposed purchaser or hirer, without notice in good faith and for valuable consideration, such provision shall be invalid, and such purchaser, or proposed purchaser or hirer, shall be deemed the owner of the goods, unless,

(a) the contract is evidenced by a writing signed by the purchaser, proposed purchaser or hirer or his agent, stating the terms and conditions of the sale or hiring and describing the goods sold or lent for hire; and the contract is in writing.

(b) within 10 days after the execution of the contract a true copy of it is filed in the office of the clerk of the county or district court of the county or district in which the purchaser, proposed purchaser or hirer resided at the time of the sale or hiring and the renewal statement, if any, is filed as provided in section 4. R.S.O. 1937, c. 182, s. 2 (1); 1938, c. 5, s. 2. and a copy filed in office of clerk of county or district court.

(2) Subsection 1 shall apply to the case of a hire receipt where the hirer is given an option to purchase. Hire receipts.

(3) Where the delivery is made to any person for the purpose of resale by him in the course of business, such provision shall also, as against his creditors, be invalid and he shall be deemed the owner of the goods unless this Act has been complied with. Goods delivered for the purpose of resale.

(4) Where such person resells the goods in the ordinary course of his business, the property in and ownership of such Ownership on resale.

goods shall pass to the purchaser notwithstanding that this Act has been complied with.

Application
of cl. *b* of
subs. 1 to
manufac-
tured goods,
etc.

(5) Clause *b* of subsection 1 shall not apply to a contract respecting manufactured goods, including pianos, organs and other musical instruments, which, at the time possession is delivered, have the name and address of the seller or lender painted, printed, stamped or engraved thereon or plainly attached thereto, nor to a contract respecting household furniture other than pianos, organs and other musical instruments.

Error in
name or
description.

(6) An error or inaccuracy in the name or address of the seller or lender which does not mislead shall not prevent the application of subsection 5.

Rolling
stock sold
to railway
company.

(7) This section shall not apply to a contract for the sale of rolling stock by an incorporated company to a railway company if the contract or a copy of it is filed in the office of the Provincial Secretary within 10 days from its execution. R.S.O. 1937, c. 182, s. 2 (2-7).

Copy of
contract to
be given to
purchaser
or hirer.

3. The seller or lender shall deliver a copy of the contract to the purchaser or hirer within 20 days after the execution thereof, and if, after request, he neglects or refuses to do so the judge of the county or district court of the county or district in which the purchaser or hirer resided when the contract was made may, on summary application, make an order for the delivery of such copy. R.S.O. 1937, c. 182, s. 3.

Renewal
statement
to be filed.

4.—(1) Every contract, of which a copy has been filed in pursuance of this Act, shall cease to be valid as against the creditors of the purchaser, proposed purchaser or hirer and as against subsequent purchasers claiming from or under such purchaser, proposed purchaser or hirer, without notice, in good faith and for valuable consideration, at the expiration of three years from the day of the filing of such copy unless within thirty days next preceding the expiration of three years from the day of filing such copy, a renewal statement (Form 5) has been filed in the same office in which the original copy of the contract was filed showing,

- (a) the name and residence of the seller or lender and the name and residence of the purchaser, proposed purchaser or hirer;
- (b) a brief description of the goods;
- (c) the amount of the contract price and an itemized statement of all payments, if any, made on account thereof, and the unpaid balance.

(2) The renewal statement shall be signed by the seller or lender or his assignee, personal representative or agent, and shall be verified by the affidavit (Form 6) of such seller or lender, assignee, personal representative or agent having personal knowledge of the matters required to be verified, and the affidavit of such assignee, personal representative or agent shall state that he has such knowledge. Who to sign renewal statement.

(3) Every contract in respect of which a renewal statement has been filed in pursuance of this Act shall cease to be valid as against the creditors of the purchaser, proposed purchaser or hirer and as against subsequent purchasers claiming from or under such purchaser, proposed purchaser or hirer, without notice, in good faith and for valuable consideration at the expiration of three years from the day of the filing of such renewal statement unless within thirty days next preceding the expiration of three years from the day of filing such renewal statement a further renewal statement in like form has been filed in the same office. Validity of renewal statement.

(4) The provisions of this section shall apply to the case of a hire receipt where the hirer is given an option to purchase. Hire receipt.
1938, c. 5, s. 3.

(5) Where a renewal statement is not duly registered within the time prescribed by this section, the judge of the county or district court may permit it to be registered at a later date upon being satisfied by affidavit or affidavits that the failure to register arose from misadventure, ignorance or some other cause which constitutes a reasonable excuse and that the parties have acted and are acting in good faith, but in such case the renewal statement shall as against creditors of the purchaser, proposed purchaser or hirer, and as against subsequent purchasers claiming from or under such purchaser, proposed purchaser or hirer without notice, in good faith and for valuable consideration who have become creditors, mortgagees or purchasers after the expiry of the contract but before registration, be deemed to have been executed and to be effective only from the date of registration, and for the purposes of registration of any further statement of renewal, such statement of renewal shall be deemed to have been registered upon the actual date of registration. 1941, c. 14, s. 1. Court order may be obtained to permit later filing.

5. The clerk of the county or district court shall make a record of every contract or renewal statement of which a copy is filed in his office under this Act in an index book to be kept for that purpose and shall be entitled to the following fees for services under this Act: Fees.

1. For filing each copy of a contract or renewal statement and making a record thereof..... \$.50
2. For filing each discharge or assignment and making a record thereof..... .50
3. For a general search..... .25
4. For the production or inspection of any copy or document filed..... .10
5. For copies of or extracts from any copy or document filed, whether made by the person making the search or by the clerk, per hundred words..... .10
6. For a certificate of the filing of or identifying any copy or document filed giving time, date and number of filing when required, or any other proper certificate not otherwise provided for..... .50

1939, c. 47, s. 4.

Immaterial errors.

6. An error of a clerical nature or in an immaterial or non-essential part of the copy of the contract or renewal statement which does not mislead shall not invalidate the filing or destroy the effect of it. R.S.O. 1937, c. 182, s. 5; 1938, c. 5, s. 5.

Seller's or lender's duty to give particulars of claim.

7.—(1) The seller or lender shall, within five days after the receipt of a request in writing from any proposed purchaser of any goods to which this Act applies, or from any other person interested, furnish particulars of the amount remaining due to him and the terms of payment of it, and in default he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$50.

How particulars to be given.

(2) If the request is by letter the person making the request shall give a name and post office address to which a reply may be sent, and it shall be sufficient if the information is given by registered letter deposited in the post office within the prescribed time addressed to the person inquiring at his proper post office address, or, where the name and address is given by him, by the name and at the post office address so given. R.S.O. 1937, c. 182, s. 6.

Seller's or lender's duty after retaking.

8.—(1) Where the seller or lender retakes possession of the goods for breach of condition, he shall retain them for 20 days, and the purchaser or hirer or his successor in interest may redeem the goods within that period on payment of the amount then in arrear, together with interest and the actual costs and expenses of taking and keeping possession.

Seller's notice of intention to sell.

(2) Where the purchase price of the goods exceeds \$30 and the seller or lender intends to look to the purchaser or hirer for any deficiency on a resale, the goods shall not be resold

until after notice in writing of the intention to sell has been given to the purchaser or hirer or his successor in interest.

(3) The notice shall contain,

What notice
to contain.

- (a) a brief description of the goods;
- (b) an itemized statement of the balance of the contract price due and the actual costs and expenses of taking and keeping possession up to the time of the notice;
- (c) a demand that the amount as stated in the notice shall be paid on or before a day mentioned which day shall not be less than 20 days from the day of retaking possession of the goods;
- (d) a statement that, unless the amount stated in the notice is paid within the time mentioned, the goods will be sold either at private sale or advertised and sold by public auction, and that the seller or lender intends to look to the purchaser or hirer for any deficiency occasioned by any resale.

(4) The notice shall be served personally upon or left at the residence or last known place of abode in Ontario of the purchaser or hirer or his successor in interest at least five days before the date set out in the notice for payment or may be sent by registered post at least seven days before such date set out in the notice for payment addressed to the purchaser or hirer or his successor in interest at his last known post office address.

Service of
notice.

(5) The notice may be given during 20 days mentioned in subsection 1.

Time for
giving
notice.

(6) This section shall apply notwithstanding any agreement to the contrary. R.S.O. 1937, c. 182, s. 7.

Application
of
section.

9.—(1) Subject to subsection 2 and section 13, where the goods, other than building material, have been affixed to realty they shall remain subject to the rights of the seller or lender as fully as they were before being so affixed, but the owner of such realty or any purchaser or any mortgagee or other encumbrancer thereof shall have the right as against the seller or lender or other person claiming through or under him to retain the goods upon payment of the amount owing on them. R.S.O. 1937, c. 182, s. 8 (1); 1938, c. 5, s. 6 (1).

Goods
affixed
to realty
subject to
rights of
seller or
lender.

Mining
machinery
subject to
rights of
seller or
lender.

(2) Where the goods consist of mining machinery or appliances on a mining claim for which the patent or lease, as the case may be, has not issued, they shall remain subject to the rights of the seller or lender whether they have been affixed to the realty or otherwise as fully as they were before being so affixed, and the conditional sale contract or hire receipt or a copy thereof may be filed with the recorder of the mining division in the same manner as a conditional sale contract or hire receipt may be filed with the clerk of a county or district court, and the provisions of this Act with regard to filing a renewal statement and a discharge shall apply *mutatis mutandis*. R.S.O. 1937, c. 182, s. 8 (2); 1938, c. 5, s. 6 (2).

Filing to
be notice of
contract.

(3) The filing of a conditional sale contract or hire receipt as provided in subsection 2 shall be deemed actual notice to a creditor, subsequent purchaser or mortgagee of such goods or realty. R.S.O. 1937, c. 182, s. 8 (3).

Right of
landlord
distraining
to pay off
vendor's lien.

10. Where the goods are in or upon premises with respect to which rent is in arrears, the landlord or other person exercising the right of distress shall have the right to distrain the goods upon payment of the amount owing thereon to the seller or lender or other person claiming through or under him, and the landlord may add the amount so paid to his claim for the rent. R.S.O. 1937, c. 182, s. 9.

Contract
made out
of Ontario
and goods
subsequently
brought into
Ontario.

11. When a contract has been made out of Ontario with reference to goods not then within Ontario which if made within Ontario and with reference to goods within Ontario would come within this Act, or where under the law governing the contract the seller has the right of revendication or to resume possession of the goods notwithstanding the possession of the purchaser upon default in payment of the price or the insolvency of the purchaser, and the goods are brought into Ontario, such contract shall be subject to this Act, provided that the period for filing in the office of the clerk of the county or district court of the county or district in which the purchaser, proposed purchaser or hirer resided at the time of the sale or hiring shall be within 20 days after the date on which the goods are brought within Ontario, and provided that a caution under oath stating the nature of the agreement and of the right claimed may be filed in lieu of a true copy of the contract. R.S.O. 1937, c. 182, s. 10.

Discharge
of
conditional
sale contract.

12.—(1) A conditional sale contract or hire receipt may be discharged by filing in the office of the clerk of the county or district court in which a copy of such contract or hire receipt has been filed, a certificate that all moneys due thereunder have been satisfied, or to the like effect, signed by the

seller or lender and proved by affidavit of a subscribing witness, and the clerk of such court shall, upon receiving such certificate, write the words "See discharge number (*stating the number of the certificate*)" opposite such place where the number of the contract or hire receipt has been entered in the index book kept for that purpose and he shall also endorse a similar memorandum upon the instrument discharged. R.S.O. 1937, c. 182, s. 11 (1).

(2) The discharge may be as in Form 3. R.S.O. 1937, ^{Form of} c. 182, s. 11 (2), ^{discharge.} *part.*

13.—(1) In addition to any other registration or filing that may be required by this Act, notice of any conditional sale contract or hire receipt (Form 1) may be registered in the proper registry or land titles office, and shall set out, ^{Notice of contract may be registered in registry or land titles office.}

(a) the name and residence of the seller and the purchaser;

(b) a brief description of the goods sold;

(c) the amount owing on the goods sold;

(d) a description of the land upon which the goods are affixed or placed or are to be affixed or placed, sufficient for the purpose of registration, and where the land is registered under *The Land Titles Act*, also a reference to the number of the parcel of the land and to the register in which such land is registered in the land titles office. R.S.O. 1937, c. 182, s. 12 (1); 1938, c. 5, s. 7 (1); 1941, c. 14, s. 2 (1). ^{Rev. Stat., c. 197.}

(2) The notice shall be signed by the seller or his assignee, personal representative or agent, and shall be verified by the affidavit (Form 2) of the seller or his assignee, personal representative or agent having personal knowledge of the matters required to be verified, and the affidavit of the assignee, personal representative or agent shall state that he has such knowledge. R.S.O. 1937, c. 182, s. 12 (2); 1941, c. 14, s. 2 (2). ^{Form of notice and affidavit verifying.}

(3) The registration of such conditional sale contract or hire receipt as provided herein shall be deemed actual notice to the owner of such land or any interest therein or to a subsequent purchaser, mortgagee or other encumbrancer of such land or any interest therein. R.S.O. 1937, c. 182, s. 12 (3). ^{Registration to be notice to purchaser or mortgagee of land.}

(4) Where the goods have become affixed to such land or are fixtures and there is already registered against the land a mortgage or charge, all payments or advances made on such ^{Rights of mortgagee or chargee.}

mortgage or charge after such goods have become affixed or have become fixtures and before registration of notice of such conditional sale contract or hire receipt as provided in this section shall have priority over the rights of the seller or lender under such conditional sale contract or hire receipt. 1938, c. 5, s. 7 (2).

Fee for
registration.

(5) The fee for registration of such notice shall be \$1. R.S.O. 1937, c. 182, s. 12 (4).

Discharge.

(6) A notice of a conditional sale agreement or hire receipt registered under this section may be discharged by a certificate (Form 4) signed by the seller or his assignee, personal representative or agent, accompanied by an affidavit of execution; provided that an affidavit of execution shall not be necessary where the discharge is executed under the seal of a corporation. R.S.O. 1937, c. 182, s. 12 (5); 1938, c. 5, s. 7 (3).

Fee for
discharge.

(7) The fee for registration of a discharge shall be 50 cents. R.S.O. 1937, c. 182, s. 12 (6).

Notice,
affidavits,
and renewal
statements
in case of a
corporation.

14.—(1) Where the seller or lender or his assignee, personal representative or agent is a corporation, any notice or renewal statement may be signed, and any verifying affidavit may be made by the president, vice-president, manager, assistant manager, secretary or treasurer thereof, or, in the case of a corporation having a branch office, by the manager, assistant manager or accountant of the branch office.

Contents of
affidavit by
officer of
corporation.

(2) Where the affidavit is made by an officer of a corporation it shall state that the deponent has personal knowledge of the facts therein deposed to. 1948, c. 15, s. 2.

FORM 5

(Section 4 (1))

RENEWAL STATEMENT

Statement exhibiting the interest of

 of the of the
 of

 mentioned in the contract made between
 of the of as
 and of the of
 as a copy of which conditional sales
 contract (or hire receipt) was filed in the office of the clerk of the
 court of the of on
 the day of 19....., and of the
 unpaid balance.

Contract price..... \$
 Payments on account \$
 Unpaid balance..... \$

Dated this day of 19.....

.....
 (signature of seller, or as the case may be)

1938, c. 5, s. 8 (2), *part.*

FORM 6

(Section 4 (2))

AFFIDAVIT VERIFYING RENEWAL STATEMENT

I, , named in the
 above (or attached) renewal statement, make oath and say:

1. That the facts set out in such statement are true and the conditional sale contract (or hire receipt) mentioned in this affidavit is not being kept on foot for fraudulent purposes.

(Where the affidavit is made by the assignee, personal representative or agent of the seller or lender or by an officer of a corporation a clause to the following effect must be added:)

2. That I have full knowledge of the facts set forth in the above (or attached) renewal statement.

Sworn, etc.

.....
 (signature of seller, or as the case may be)

1938, c. 5, s. 8 (2); 1948, c. 15, s. 3 (2).

CHAPTER 62

The Conservation Authorities Act

1. In this Act,

Interpre-
tation.

- (a) "advisory board" means an advisory board appointed by an authority;
- (b) "authority" means a conservation authority established under this Act;
- (c) "chief officer" means the chief officer of an authority;
- (d) "executive committee" means executive committee appointed by an authority;
- (e) "land" includes buildings and any estate, term, easement, right or interest in, to, over or affecting land;
- (f) "municipality" means a city, town, village or township;
- (g) "owner" includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested;
- (h) "participating municipality" means, subject to section 4, a municipality which,
 - (i) is either wholly or partly within a watershed,
 - (ii) may benefit by a scheme established therein, and
 - (iii) is declared by the Lieutenant-Governor in Council to be a participating municipality for the purposes of such scheme;
- (i) "referee" means referee appointed under *The Municipal Drainage Act* having jurisdiction over that part of Ontario where the watershed is situate;

Rev. Stat.,
c. 246.

(j) "scheme" means scheme undertaken by an authority for the purposes of the conservation, restoration and development of natural resources, other than gas, oil, coal and minerals, and the control of water in order to prevent floods and pollution, or for any of such purposes;

(k) "watershed" means an area drained by a river and its tributaries. 1946, c. 11, s. 1.

Application.

2. This Act shall not apply to any part of Ontario lying within a territorial district. 1946, c. 11, s. 2.

Calling of meeting.

3.—(1) Where the councils of any two or more municipalities situate either wholly or partly within a watershed by resolution request the Minister of Public Works to call a meeting for the establishment of a conservation authority for the watershed or any defined part thereof, the Minister of Public Works shall fix a time and place for such a meeting and shall forthwith notify the council of every municipality either wholly or partly within the watershed or such part thereof.

Representatives at meeting.

(2) The council of each municipality may appoint representatives to attend the meeting in the following numbers,

(a) where the population exceeds 50,000, three representatives;

(b) where the population exceeds 10,000 but is less than 50,000, two representatives; and

(c) where the population is less than 10,000, one representative,

and the representatives so appointed shall have authority to vote and generally act on behalf of their respective municipalities at such meeting.

Quorum.

(3) At any meeting called under this section a quorum shall consist of two-thirds of the representatives which the municipalities notified are entitled to appoint but where not less than three representatives are present at a meeting or adjourned meeting they may adjourn the meeting or adjourned meeting from time to time. 1946, c. 11, s. 3.

Establishment of authority.

4.—(1) Upon receipt by the Minister of Public Works of a resolution passed at a meeting or adjourned meeting held under section 3 and at which a quorum was present, by

not less than two-thirds of the representatives present thereat, requesting the establishment of an authority the Lieutenant-Governor in Council may establish a conservation authority and designate the municipalities which shall be the participating municipalities and the area over which the authority shall have jurisdiction.

(2) The name of each authority shall be determined by the Lieutenant-Governor in Council and shall conclude with the words "conservation authority". Name of authority.

(3) Every authority shall be a body corporate. 1946, c. 11, s. 4. To be body corporate.

(4) Every authority may, for its purposes, borrow on the promissory note of the authority at interest not exceeding five per cent per annum, such moneys as may be required until payment to the authority of any grants and of sums to be paid to the authority by the participating municipalities. 1950, c. 9, s. 1. Borrowing power.

5. Where the councils of any three municipalities situate either wholly or partly within two or more watersheds by resolution request the Minister of Public Works to call a meeting for the establishment of a conservation authority for such watersheds or any defined parts thereof, the provisions of sections 3 and 4 shall apply *mutatis mutandis*. 1946, c. 11, s. 5. Establishment of conservation authority.

6.—(1) Where, Meeting for enlargement of authority.

- (a) an authority has been established for one or more watersheds; and
- (b) the councils of any two or more municipalities situate either wholly or partly within a watershed adjoining the watershed or watersheds for which the authority has been established, by resolution request the Minister of Public Works to call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include such adjoining watershed,

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of the authority and the council of every municipality either wholly or partly within the adjoining watershed.

(2) With respect to each municipality so notified, sub-section 2 of section 3 shall apply. Representatives from adjoining watershed.

Quorum.

(3) At any meeting called under this section, a quorum shall consist of the number of members of the existing authority required to constitute a quorum of the authority and two-thirds of the representatives which the municipalities notified are entitled to appoint, but where not less than two members of the authority and three municipal representatives are present at a meeting or an adjourned meeting they may adjourn the meeting or adjourned meeting from time to time.

Enlargement
of authority.

(4) Upon receipt by the Minister of Public Works of a joint resolution passed at a meeting or adjourned meeting held under subsection 3 and at which a quorum was present, by not less than two-thirds of the members of the authority and not less than two-thirds of the municipal representatives thereat, requesting the enlargement of the area over which the authority has jurisdiction to include the adjoining watershed, the Lieutenant-Governor in Council may enlarge the area accordingly and may designate the additional municipalities which shall be participating municipalities and the area over which the enlarged authority shall have jurisdiction. 1949, c. 15, s. 1, *part*.

Enlargement
of authority
having juris-
diction in
part of a
watershed.

7. Where,

- (a) an authority has been established and has under its jurisdiction part of a watershed; and
- (b) the councils of two or more municipalities situate either wholly or partly within any defined part of the watershed not under the jurisdiction of the authority, by resolution request the Minister of Public Works to call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include such defined part,

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of the authority and the council of every municipality either wholly or partly within such defined part, and the provisions of subsections 2, 3 and 4 of section 6 shall apply *mutatis mutandis*. 1949, c. 15, s. 1, *part*.

Members of
authority.

8.—(1) Members of an authority shall be appointed by the respective councils of the participating municipalities in the numbers prescribed by subsection 2 of section 3 for the appointment of representatives and shall hold office during the pleasure of the respective councils.

(2) Where the Lieutenant-Governor in Council makes a ^{Idem.} grant to an authority he may appoint a member of the authority.

(3) The first meeting of an authority shall be held at such ^{First meeting.} time and place as may be determined by the Minister of Public Works. 1946, c. 11, s. 6.

9.—(1) Each member of an authority shall be entitled to ^{Votes.} one vote and in the event of a tie vote, the chairman shall have a second or deciding vote.

(2) At any meeting of an authority a quorum shall consist ^{Quorum.} of one third of the number of members which the participating municipalities are entitled to appoint except where there are less than six members in which case two members shall constitute a quorum.

(3) A majority vote of the members present at any meeting ^{Majority votes.} shall be required upon all matters coming before the meeting. 1946, c. 11, s. 7.

10.—(1) At the first meeting of an authority and thereafter ^{Chairman, vice-chairman.} at the first meeting held in each calendar year, the authority shall elect a chairman and a vice-chairman from among themselves, provided that where the Lieutenant-Governor in Council makes a grant to an authority, he may appoint the chairman.

(2) Subject to subsection 1, upon the death of the chairman ^{Death of chairman and vice-chairman.} or vice-chairman, or upon either of them ceasing to be a member of the authority, the remaining members may elect a chairman or vice-chairman to fill such vacancy.

(3) In the event of the absence of the chairman and vice- ^{Absence of chairman and vice-chairman.} chairman from any meeting of an authority, the members present shall elect an acting chairman who, for the purposes of such meeting, shall have all the powers and perform all the duties of the chairman. 1946, c. 11, s. 8.

11.—(1) An authority may appoint a chief officer, secre- ^{Chief officer, secretary-treasurer; appointment of.} tary-treasurer and such other employees as it may deem necessary who shall hold office during the pleasure of the authority and shall receive such salary or other remuneration as the authority may determine, payable out of the funds of the authority.

(2) An authority may appoint one or more advisory boards. ^{Advisory boards.} 1946, c. 11, s. 9.

Executive
committee.

12.—(1) The authority may elect or appoint an executive committee from among themselves.

Chief
officer to
be member.

(2) The chief officer shall be *ex officio* a member of the executive committee.

Chairman.

(3) Where the Lieutenant-Governor in Council makes a grant to an authority, he may appoint the chairman of the executive committee. 1946, c. 11, s. 10.

Objects.

13. The objects of an authority shall be to undertake and effect such scheme or schemes in respect of the watershed or part thereof for which it is established as the authority may determine. 1946, c. 11, s. 11.

Filing
of plans.

14. Before proceeding with a scheme an authority shall file plans and a description thereof with and obtain the approval in writing of the Minister of Lands and Forests, the Minister of Planning and Development and the Minister of Public Works. 1946, c. 11, s. 12.

Powers of
authorities.

15. For the purposes of carrying out a scheme an authority shall have power,

- (a) to study and investigate the watershed itself or by its engineers or other employees or representatives, and to determine a scheme whereby the natural resources of the watershed may be conserved, restored and developed and the waters controlled in order to prevent floods and pollution or any of such matters;
- (b) subject to *The Lakes and Rivers Improvement Act*, to erect works and structures and create reservoirs by the construction of dams or otherwise;
- (c) to purchase or acquire and without the consent of the owner enter upon, take and expropriate any land which it may require and sell or otherwise deal with such land or other property;
- (d) to purchase or acquire any personal property which it may require and sell or otherwise deal therewith;
- (e) to enter into such agreements for the purchase of materials, employment of labour and such other purposes as may be necessary for the due carrying out of any scheme;
- (f) to determine the proportion of the total benefit afforded to all the participating municipalities which is afforded to each of them;

Rev. Stat.,
c. 195.

- (g) to use lands which are owned or controlled by the authority for such purposes, not inconsistent with its objects, as it deems proper;
- (h) to collaborate with departments and agencies of government, municipal councils and local boards and other organizations;
- (i) to plant and produce trees on public lands with the consent of the Minister of Lands and Forests, and on private lands with the consent of the owner, for any purpose;
- (j) to cause research to be done;
- (k) generally to do all such acts as are necessary for the due carrying out of any scheme. 1946, c. 11, s. 13.

16.—(1) When an authority has determined the proportion of the total benefit afforded to all the participating municipalities which is afforded to each of them, it shall cause a notice containing a statement of such apportionment to be sent to the council of each participating municipality by prepaid registered mail. Notice of apportionment.

(2) Any municipal council which is dissatisfied with any such apportionment may, upon 10 days notice in writing to the authority, apply to the Ontario Municipal Board to have such apportionment reviewed. Review of apportionment by Municipal Board.

(3) Upon such application the Ontario Municipal Board shall fix a date for the hearing of all interested parties and shall give all necessary directions for the hearing. Hearing.

(4) The Ontario Municipal Board shall have authority to take evidence, to confirm or vary the apportionment of the authority and to fix and award costs, and its decision shall be final and conclusive and shall not be open to appeal. Powers of Board on hearing.

(5) In the event of the authority varying any apportionment made by it, the provisions of this section shall apply *mutatis mutandis*. 1946, c. 11, s. 14. Variation of apportionment.

17. In the event that an authority determines that any participating municipality does not benefit by any scheme and is not required to pay any part of the expenses of the authority, such municipality shall not be entitled to representation on the authority and shall cease to be a participating municipality. 1946, c. 11, s. 15. When municipality not entitled to representation on authority.

Regulations.

18. Subject to the approval of the Lieutenant-Governor in Council, an authority may make regulations,

- (a) providing for the calling of meetings of the authority and prescribing the procedure at such meetings;
- (b) prescribing the powers and duties of the chief officer and secretary-treasurer;
- (c) delegating all or any of its powers to the executive committee except,
 - (i) the termination of the services of the chief officer and secretary-treasurer,
 - (ii) the power to raise money, and
 - (iii) the power to enter into contracts or agreements other than such contracts or agreements as are necessarily incidental to the erection of works approved by the authority. 1946, c. 11, s. 16.

Power to
enter on
lands, etc.

19.—(1) An authority may itself or by its chief officer, employees or agents for any purpose necessary to any scheme under consideration or undertaken by the authority, enter into and upon any land to whomsoever belonging and survey and take levels of the same and make such borings or sink such trial pits as it may deem necessary, and, subject to the approval of the Minister of Public Works, for the purposes of any scheme may,

- (a) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, road, street, or way, or raise or sink the level of the same in order to carry it over or under, on the level of or by the side of any work built or to be built by the authority; and
- (b) divert or alter the position of any water-pipe, gas-pipe, sewer, drain or any telegraph, telephone or electric wire or pole.

Cost of
work.

(2) The cost of any work undertaken by an authority under this section shall be borne by the authority and compensation for any damage occasioned thereby may be claimed in accordance with section 25. 1946, c. 11, s. 17.

20. If the chairman of an authority is of opinion that it can obtain the whole of any lot or parcel of land of which any part may be expropriated by it at a more reasonable price or to greater advantage than by acquiring such part only, it may expropriate the whole of such lot or parcel and may afterwards sell and convey any part thereof as it deems expedient. 1946, c. 11, s. 18.

21.—(1) Where an authority desires to expropriate land, it shall cause a plan and description of such land prepared and signed by an Ontario land surveyor and signed by the chairman or vice-chairman and by the chief officer, to be deposited in the proper registry or land titles office and such land shall thereupon be vested in the authority.

(2) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan and description so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest, shall become and be vested in the authority.

(3) In case of any omission, misstatement or erroneous description in any plan or description, a correct plan and description may be deposited with like effect.

(4) In all cases, when any such plan and description, purporting to be signed by the chairman or vice-chairman and the chief officer, is so deposited, they shall be deemed to have been deposited by the direction of the authority and as indicating that such land is required for the carrying out of a scheme, and the plan and description shall not be called in question except by the authority. 1946, c. 11, s. 19.

22.—(1) Where land is expropriated, the authority shall within one month of the deposit of the plan and description in the registry or land titles office send a notice by prepaid registered mail to every owner of land included in such plan and description and cause a similar notice to be published once a week for at least three weeks in a newspaper having a general circulation in the locality where the land is located.

(2) Such notice shall state,

(a) that such land has been expropriated by the authority;

Notice,
what to
state.

Notice where
land expro-
priated.

Deposit of
plan.

Correcting
plan or
description.

Where land
required for
limited time.

Plan to be
deposited in
registry or
land titles
office.

Expropria-
tion of
land.

(b) the purpose for which the land is to be used;

(c) that the owner of any of such land is required to file a statement of any claim for compensation in respect of the expropriation of such land in the office of the authority not later than one month after the mailing or third publication of the notice, whichever is the later date.

Determina-
tion of
amount of
compensa-
tion.

(3) Upon the expiration of the time indicated in the notice an advisory board shall consider and determine the amount of compensation payable.

Filing of
statement.

(4) The advisory board shall, in every case where it is called upon to determine the amount of compensation payable, file with the authority a statement of the amount of compensation it finds to be payable, together with written reasons for each finding.

Notice to
person
claiming.

(5) Within one month of the filing of such statement and reasons the authority shall cause a notice to be sent by prepaid registered mail to the person claiming compensation advising him of the amount of compensation determined by the advisory board.

Notice of
appeal.

(6) Any person who is dissatisfied with the amount of compensation found to be owing to him by the advisory board may, within one month of the mailing of such notice, notify the authority in writing that he is dissatisfied with such finding and desires to appeal to the Ontario Municipal Board.

Copy of
notice of
dissatisfac-
tion to be
sent to
Municipal
Board.

(7) Upon receipt of a notice of dissatisfaction, the authority shall forward to the Ontario Municipal Board a copy of the notice together with the statement and written reasons of the advisory board and a copy of the plan and description certified by the chief officer.

Hearing of
appeal.

(8) The secretary of the Ontario Municipal Board shall advise the authority of the time and place when the appeal will be heard and the authority shall cause a notice of the time and place of the hearing to be sent to the appellant by prepaid registered mail at least two full weeks prior to the time fixed for such hearing.

Power of
Municipal
Board.

(9) The Ontario Municipal Board shall have authority to review the finding of the advisory board and to increase, decrease, otherwise vary or confirm such findings, or may refer the matter back to the advisory board for further consideration in which case the advisory board shall report

back to the Ontario Municipal Board and the decision of the Ontario Municipal Board shall be final and conclusive and shall not be open to any appeal, provided, however, that an appeal shall lie from the Ontario Municipal Board to the Court of Appeal upon a question of jurisdiction or upon any question of law, but such appeal shall not lie unless leave to appeal is obtained from the Court within one month after the making of the order or decision sought to be appealed from, or within such further time as the Court under the special circumstances of the case shall allow after notice to the other party stating the grounds of appeal, and upon every such appeal the provisions of *The Ontario Municipal Board Act* Rev. Stat., c. 262. relating to appeals from the Ontario Municipal Board to the Court of Appeal shall apply *mutatis mutandis*. 1946, c. 11, s. 20.

23. The compensation agreed upon or determined by the advisory board or the Ontario Municipal Board for any land or property acquired by expropriation or otherwise under this Act shall stand in the stead of the land or property, and any claim to or encumbrance thereon shall, as respects the authority, be converted into a claim to or upon the compensation and shall no longer affect the land or property so acquired. 1946, c. 11, s. 21. Character of compensation.

24.—(1) Where at any time before the compensation has been actually ascertained or determined, land expropriated, or any part thereof, is found not to be required, or if it is found that a more limited estate or interest therein only is required, the authority may register in the proper registry office a notice to the effect that the land or such part thereof is not required and is abandoned by the authority, or that it is intended to retain only such limited estate or interest as is mentioned in the notice, and thereupon, Right of authority to abandon land taken.

- (a) the land declared to be abandoned shall revert in the person from whom it was expropriated or in those entitled to claim under him; or
- (b) in the event of a limited estate or interest therein being retained by the authority, the land shall so revert subject to the estate or interest so retained.

(2) Where part only of the land or all of it but a limited estate or interest therein is abandoned, the fact of such abandonment, and the damage, if any, sustained in consequence of that which is abandoned having been taken, and all the other circumstances of the case shall be taken into account in determining the amount to be paid to any person claiming compensation. Effect upon compensation.

Damages
where
abandon-
ment
complete.

(3) Where the whole of the land taken is abandoned, the person from whom it was taken shall be entitled to compensation for the damage sustained and costs incurred by him in consequence of the taking and abandonment, and the amount of such compensation shall be determined in the same manner, *mutatis mutandis*, as is provided by section 22, provided that if the amount of compensation for the expropriation of such land is being determined by the advisory board or the Ontario Municipal Board at the time of the abandonment, the advisory board or the Ontario Municipal Board, as the case may be, shall proceed forthwith to determine the compensation payable in consequence of the taking and abandonment. 1946, c. 11, s. 22.

Damage to
other lands.

Rev. Stat.,
c. 246,
105, 195.

25.—(1) Where the carrying out or completion of any scheme injuriously affects any land whether by interfering with any work which has been constructed under *The Municipal Drainage Act*, *The Ditches and Watercourses Act*, *The Lakes and Rivers Improvement Act* or otherwise, the owner of the land may apply in writing to the authority in question for compensation and every such application shall contain a statement of the nature of the plaintiff's claim and the amount of compensation claimed.

Report of
advisory
board.

(2) Upon receipt of an application for compensation under subsection 1, the authority shall direct a board of engineers to investigate the claim and upon the completion of such investigation the advisory board shall report to the authority whether the land of the applicant has been injuriously affected by reason of the carrying out or completion of the scheme, and if damage has been so occasioned, what amount of money the board deems to be reasonable compensation therefor, and the authority shall cause a true copy of the report to be sent to the applicant by prepaid registered mail.

Amount of
compensa-
tion.

(3) In determining what amount of money is fair compensation for damage occasioned, the advisory board, and on an appeal, the referee, shall include in the amount reasonable compensation for such damage as may reasonably be expected to be suffered by the land by reason of the carrying out or completion of the scheme.

Where no
appeal.

(4) If within one month of the mailing of the copy of the report as provided in subsection 2, the applicant does not serve the authority with a notice of appeal in accordance with subsection 5, the authority may pay to the applicant the amount deemed by the advisory board to be reasonable compensation and thereafter no further claim shall be made against the authority in respect of such land.

(5) Any applicant who is dissatisfied with the report of the advisory board may, within one month of the mailing of a copy of the report, appeal to the referee by sending a notice in writing of his desire to appeal to the authority by prepaid registered mail.

Appeal to referee.

(6) Upon receipt of the notice of appeal, the authority shall cause all necessary arrangements to be made for the hearing of the appeal by the referee and shall cause a notice of the time and place of such hearing to be sent to the appellant by prepaid registered mail at least two full weeks prior to the time fixed for the hearing.

Arrangements for appeal.

(7) The referee may hear and determine the appeal in a summary manner either on his own view of the premises and after hearing the parties and if he sees fit, their witnesses, or upon the report of an independent engineer appointed by the referee, or he may direct the parties to proceed under the provisions of *The Municipal Drainage Act*, and the order of the referee as to the method of procedure shall be final.

Hearing of appeal.

Rev. Stat., c. 246.

(8) Upon an appeal taken to the referee under this section, the provisions of *The Municipal Drainage Act* shall apply *mutatis mutandis* but the powers of the referee shall be limited to fixing the amount of compensation and enforcing payment thereof. 1946, c. 11, s. 23.

Rev. Stat., c. 246, to apply.

26.—(1) Any tenant in tail or for life, guardian, tutor, curator, executor, administrator, committee or person, not only for and on behalf of himself, his heirs and assigns, but also for and on behalf of those whom he represents, whether married women, infants, issue unborn, mental incompetents, mental defectives or other persons, seized, possessed or interested in any land or other property, may contract and agree with an authority for the sale of the whole or any part thereof, and may convey the same to the authority, and may also contract and agree with the authority as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, and may also act for and on behalf of those whom he represents in any proceeding for determining the compensation to be paid under this Act.

Contracts by tenants in tail, executors and others.

(2) Where there is no guardian or other person to represent a person under disability, the judge of the county court of the county in which the land or other property is situate, may, after due notice to the persons interested, appoint a guardian or person to represent for any of the purposes mentioned in subsection 1, the person under disability. 1946, c. 11, s. 25.

Representation of persons under disability.

Payment of
compensa-
tion up to
\$100.

27. If the compensation agreed upon, or found payable, does not exceed \$100, it may be paid to the person who under this Act may lawfully convey the land or property or agree as to the compensation, saving always the rights of any other person to such compensation as against the person receiving the same. 1946, c. 11, s. 26.

Payment of
compensa-
tion into
court.

28.—(1) In the cases provided for in section 26 the authority shall, and, in all other cases if for any reason the authority deems it advisable, it may pay the compensation into the office of the Accountant of the Supreme Court, with interest thereon at five per cent for six months.

Proceedings
after pay-
ment into
court.

(2) A notice in such form and for such a time as a judge of the High Court may direct shall be published in such newspaper as the judge may order, stating that the land is purchased, acquired or taken by the authority under this Act, and calling upon all persons claiming compensation in respect of the purchase, acquisition or taking of the land or any part thereof to file their claims, and all such claims shall be adjudicated upon by the judge, and the judge shall make such order for the distribution, payment or investment of the compensation and for securing the rights of all parties interested as to right and justice and to law appertains.

Adjustment.

(3) If such order of distribution is obtained in less than six months after the payment of the compensation into court, the judge may direct a proportionate part of the interest to be returned to the authority, and if it is not obtained until after six months have expired the judge may order the authority to pay interest for such further period as may be deemed just.

Representa-
tion of
parties.

(4) Where unborn issue or an unascertained person or class of persons are interested in the compensation, the judge may appoint such person as may be deemed proper to represent or act for them, and any order made shall be binding on them. 1946, c. 11, s. 27.

Power to
require
particulars.

29. Every person who has had any estate or interest in any land expropriated or who represents any such person shall upon demand made therefor by or on behalf of the authority which expropriated the land, furnish a true statement showing the particulars of such estate or interest and of every charge, lien or encumbrance to which it is subject and of the claim made by such person in respect of such estate or interest. 1946, c. 11, s. 28.

Warrant for
possession.

30.—(1) If any resistance or opposition is made by any person to an authority or to any person acting for it when entering upon and taking possession of land or exercising any

power in respect thereof, the judge or junior judge of the county court of the county in which the land is situated may, on proof of the execution of a conveyance to the authority or agreement therefor, or of the depositing of a plan and description in the proper registry or land titles office as provided by section 21 and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the county directing him to put down such resistance or opposition and to put the authority, or some person acting for it, in possession thereof, or take such steps as may be necessary to enable it to exercise such power.

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the authority, or some person acting for it, in possession, and shall forthwith make return to the court of such warrant and of the manner in which he executed the same. 1946, c. 11, s. 29.

31.—(1) Where any lands required for the carrying out of a scheme or part thereof are Crown lands, a plan and description of such lands prepared and signed by an Ontario land surveyor and signed by the chairman or vice-chairman and the chief officer shall be deposited with the Minister of Lands and Forests and such scheme or part thereof shall not be proceeded with until the authority has received the approval in writing of such Minister.

(2) Where any scheme, or any part thereof, may interfere with any public work of Ontario or of The Hydro-Electric Power Commission of Ontario, the authority shall file with the Minister of Public Works or with the Commission, as the case may be, a plan and description of the scheme or part thereof together with a statement of the interference with such public work which may occur and a statement of the manner in which the authority proposes to remedy such interference, and the scheme or part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Public Works or of the Commission, as the case may be.

(3) Where any scheme, or any part thereof, will interfere with any public road or highway, the authority shall file with the Minister of Highways a plan and description of the scheme or part thereof together with a statement of the interference with such public road or highway which will occur and a statement of the manner in which the authority proposes to remedy such interference, and the scheme or part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Highways.

Costs, how
to be borne.

(4) The cost of rebuilding any road, highway, bridge, public work or work of The Hydro-Electric Power Commission of Ontario or any part thereof and the cost of any other work which any of the Ministers of the Crown or the Commission may require to be done under this section, shall be borne by the authority, except where an agreement providing for payment thereof in some other manner has been entered into with the Crown in right of Ontario or the Commission as the case may be. 1946, c. 11, s. 30.

Assessment
of lands of
authority.

32.—(1) Land which is acquired by an authority by expropriation or otherwise may be assessed for municipal purposes at an amount not in excess of its assessed value immediately prior to such acquisition.

Works
exempt from
taxation.

(2) Works erected by an authority for the purposes of any scheme shall be exempt from municipal taxation. 1946, c. 11, s. 31.

Cemetery
lands.

33.—(1) Where the carrying out of any scheme will require the use of any cemetery or other place of interment of human remains, the authority shall acquire other suitable lands for the interment of the bodies contained in such cemetery or other place of interment.

Notice to
plot owners.

(2) The authority shall forward a notice to the owner of each lot in such cemetery or other place of interment, provided that if such owner or his whereabouts is unknown, the notice shall, wherever possible, be forwarded to some other person having an interest in such plot through relationship or otherwise to any deceased person buried therein.

Publication
of notice.

(3) The authority shall also cause a notice to be published once a week for at least three weeks in a newspaper having a general circulation in the locality where the cemetery or other place of interment is located, which notice shall state,

- (a) that the cemetery or other place of interment has been acquired for the purposes of the authority;
- (b) that other land, describing it, has been acquired by the authority for the purpose of re-interring the bodies;
- (c) that the authority will at its own expense proceed to remove the bodies from the cemetery or other place of interment to the lands acquired for re-interment at a time not less than one month after the forwarding or third publication of the notice, whichever is the later date; and

- (d) that the owner of any plot in the cemetery or other place of interment, or any other person with the approval of the authority, may cause any body interred in such cemetery or other place of interment to be removed to any other place of interment at his own expense providing he obtains permission from the authority and effects such removal within one month from the forwarding or insertion of the notice, whichever is the later date, or before such later date as the authority may determine.

(4) The authority shall have full power to cause the removal of any body from any such cemetery or place of interment to any lands acquired under subsection 1 notwithstanding any other Act of the Legislature and to authorize the removal by any other person of any such body for re-interment in any other cemetery or place of interment.

Authority to remove bodies.

(5) Where any body is removed and re-interred any headstone and other stones shall be removed and re-erected at the place of re-interment.

Removal of headstones.

(6) The authority shall render lands, including fences and buildings, acquired for the re-interment of bodies, in a fit and proper condition and shall convey such land to the owner of the cemetery or other place of interment from which the bodies were removed. 1946, c. 11, s. 32.

Conveyance of lands for re-interment.

34.—(1) Subject to the right of an authority to use any water power created upon lands vested in it for its own uses which shall not include the marketing or sale of power, The Hydro-Electric Power Commission of Ontario shall have the sole right to use such water power, provided that The Hydro-Electric Power Commission of Ontario may consent to the use of any such water power by any person on such terms and conditions as are satisfactory to it and to the authority.

Use of water power.

(2) The Hydro-Electric Power Commission of Ontario shall pay to the authority an annual, reasonable compensation for the use of any such water power used by it.

Compensation for water power.

(3) Where the authority and The Hydro-Electric Power Commission of Ontario are unable to agree upon the amount of compensation payable, the amount shall be determined by a committee of three members comprising the chief officer of the authority, the chief engineer of the Commission and an engineer to be agreed upon by both of them, or in the event that they are unable to agree, appointed by the Lieutenant-Governor in Council, and the engineer so agreed upon or

Determination of compensation.

appointed shall act as chairman of the committee, and there shall be no appeal from the committee; provided that after 10 annual payments of compensation the amount of compensation shall be redetermined by a like committee at the request of either the authority or the Commission.

Charge for additional power.

(4) Subject to review by The Hydro-Electric Power Commission of Ontario an authority shall charge persons who at the time of the establishment of the authority are, or thereafter become, users of power derived by them from the use of the waters of the watershed for any additional power, generated from increased head or flow due to the works undertaken by the authority.

When section not to apply. Rev. Stat., c. 309.

(5) This section shall not apply to water power reserved to the Crown under *The Public Lands Act*. 1946, c. 11, s. 33.

Determination of capital expenditure.

35.—(1) An authority may from time to time determine what moneys will be required for capital expenditure in connection with any scheme.

Portion to be raised by participating municipalities.

(2) The portion of the moneys so required which each participating municipality shall raise shall be in the same proportion as the benefit derived by each such municipality bears to the total benefit derived by all participating municipalities.

How money to be raised.

(3) Upon notice in writing of the amount required to be raised, signed by the chairman and secretary-treasurer of the authority, each participating municipality shall raise by the issue of debentures or otherwise, such moneys as may be required by the authority for capital expenditure, subject only to such conditions as the Ontario Municipal Board may impose as to the time and manner of the raising of such moneys. 1946, c. 11, s. 34.

Where only part of municipality in area.

(4) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the portion of the moneys required to be raised by that municipality for capital expenditure shall be charged against the rateable property in that part of the municipality.

Limited benefit.

(5) Where the council of a participating municipality is of opinion that the major part of the benefit to be derived from a specific work accrues to a limited area of the municipality, the council, with the approval of the chief officer, may by by-law provide that a specified portion of the moneys required to be raised by that municipality for capital expenditure in connection with that work shall be defrayed by a special rate

upon the rateable property in that area, which area shall be defined in the by-law, and that the balance of such moneys shall be defrayed by a special rate upon the rateable property in the remaining portion of the municipality within the area over which the authority has jurisdiction. 1950, c. 9, s. 2.

36.—(1) For the purpose of paying costs of maintenance, including maintenance of the works included in any scheme, office expenses and salaries, a sum may annually be levied by an authority against each of the participating municipalities. Assessment of municipalities for maintenance.

(2) After determining the approximate total cost of maintenance for the succeeding calendar year, the authority shall apportion such cost to the participating municipalities according to the benefit derived by each such municipality, and the amount apportioned to each municipality shall be levied against each such municipality, and the secretary-treasurer of the authority shall forthwith certify to the clerk of each participating municipality the total amount which has been so levied, and the clerk of the municipality shall calculate and insert the same in the collector's roll for the current year, and such amount shall be collected in the same manner as municipal taxes for general purposes and paid over to the authority. 1946, c. 11, s. 35 (1, 2). Apportionment of cost.

(3) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the amount apportioned to that municipality shall be calculated and inserted in the collectors' roll for the current year against the rateable property in that part of the municipality and shall be collected and paid in the manner provided in subsection 2. 1950, c. 9, s. 3. Where only part of municipality in area.

(4) An authority may enforce payment against any participating municipality of any portion of the cost of maintenance apportioned and assessed to such municipality as a debt due by such municipality to the authority. 1946, c. 11, s. 35 (3). Enforcement of payment.

37. Where by this Act any power is conferred or duty imposed upon a municipality, or the council of a municipality, including a power or duty to raise money, such power may be exercised and such duty shall be performed by the council of the municipality without the assent of the electors. 1946, c. 11, s. 36. Assent of electors not necessary.

38. All moneys required by this Act to be raised for the purposes of an authority shall be paid to the authority and Moneys to be paid to authority.

the authority may spend such moneys as it deems proper, provided that no salary, expenses or allowances of any kind shall be paid to any of the members of the authority without the approval of the Ontario Municipal Board. 1946, c. 11, s. 37.

Grants.

39. The Lieutenant-Governor in Council may make a grant to any authority out of such funds as may be appropriated therefor by the Legislature. 1946, c. 11, s. 38.

CHAPTER 63

The Consolidated Cheese Factories Act

1. In this Act, "Minister" means Minister of Agriculture. Interpretation.
R.S.O. 1937, c. 87, s. 1.

2. Loans may be granted by the Minister, with the approval of the Lieutenant-Governor in Council, out of any moneys appropriated for the purpose by the Legislature from time to time towards the erection of consolidated cheese factories under and subject to the provisions and conditions herein set forth. R.S.O. 1937, c. 87, s. 2. Loans for building purposes.

3.—(1) Every such loan shall be secured by a first mortgage on the lands, buildings and equipment in respect of which the loan is made. Security required for loans.

(2) The loan shall bear interest at the rate of five per cent per annum. Interest.

(3) No loan shall be made of an amount in excess of eighty per cent of the value of the lands and buildings in respect of which the loan is made. R.S.O. 1937, c. 87, s. 3. Limit of loan.

4.—(1) The application for a loan may be made by milk producers in any part of Ontario who desire to erect a modern dairy plant to take the place of two or more smaller ones and who have agreed to supply annually three million pounds of milk to the dairy. Application for loan for modern dairy plant.

(2) The applicants shall form a co-operative company and shall subscribe for stock to an amount sufficient, in the opinion of the Minister, to finance the enterprise. Applicants to form co-operative company.

(3) Twenty per cent of the par value of the stock shall be paid at the time of subscription and the balance deducted from the value of the milk delivered at the factory at a rate not less than three per cent and not more than five per cent until the stock is fully paid up. Terms of loan.

(4) All moneys received on account of stock in the company shall be deposited in the trust fund and shall at the end of each three months period be paid over to the Minister to be applied for the repayment of the moneys advanced. Moneys, when to be paid over to Minister.

Limit of
five shares
to each
person.

(5) A shareholder in the company shall not hold more than five shares nor have more than one vote, and all shares in the company shall be transferable subject to the approval of the directors. R.S.O. 1937, c. 87, s. 4.

Site, plan
and equip-
ment subject
to approval
of Minister.

5.—(1) The site, plan and equipment of every factory in respect of which a loan is made under this Act shall be subject to the approval of the Minister, but the company shall have the management of the factory, provided that the Minister shall have the right to name one director until such time as the loan is fully paid.

Board of
appraisal.

(2) A loan shall not be made under this Act until a board of appraisal, consisting of a chief dairy instructor, the president of a dairymen's association and of some other disinterested person agreed upon by them, or in default of agreement, named by the Minister, shall have reported,

(a) as to the value of the land, building, and equipment of the factory in respect of which the loan is to be made; and

(b) that in their opinion all reasonable efforts have been made to effect a satisfactory adjustment with any factory which will be displaced by the factory in respect of which the loan is made. R.S.O. 1937, c. 87, s. 5.

Regulations.

6. The Lieutenant-Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 87, s. 6.

CHAPTER 64

The Consolidated Revenue Fund Act

1. All special funds and the income and revenue therefrom, and all public moneys and revenues over which the Legislature has the power of appropriation, shall form one fund, to be called the "Consolidated Revenue Fund", to be appropriated for the public service of Ontario in the manner and subject to the charges hereinafter mentioned. R.S.O. 1937, c. 21, s. 1. Sources of the Fund.

2. The Consolidated Revenue Fund shall be permanently charged with all the costs, charges and expenses incident to the collection, management, and receipt thereof, subject to review and audit in the manner directed by any Act of the Legislature. R.S.O. 1937, c. 21, s. 2. Permanent charges.

3. The Lieutenant-Governor in Council may, in his discretion, invest any surplus of the Consolidated Revenue Fund not required for the public service in the debentures or other public securities of Canada, or of any of the provinces thereof, or of the United Kingdom or any of its colonies, and may sell and dispose of the same. R.S.O. 1937, c. 21, s. 3. Investment of surplus.

4.—(1) Where any security, obligation, debenture or covenant, or any interest in real or personal estate, effects, or property is given, or transferred to, made with, or vested in the Treasurer of Ontario by virtue of his office, the security, obligation, debenture or covenant, and any right of action in respect thereto, and all the estate, right or interest of the Treasurer in respect thereof, upon the death, resignation or removal from office of the Treasurer, shall, subject to the same trusts as the same were respectively subject to, vest in the succeeding Treasurer, and may be proceeded on by action or in any other manner, or may be assigned, transferred or discharged, in the name of the succeeding Treasurer. Vesting of securities, etc., in Treasurer of Ontario and his successors.

(2) A security, obligation, debenture, covenant or an interest in real or personal estate, effects and property may be proceeded on in the name of, or assigned, transferred or discharged by, any member of the Executive Council of Ontario acting under *The Executive Council Act*. Realizing on securities.

Application
of section.

(3) This section shall apply to every security, obligation, debenture or covenant, and every interest in real or personal estate, effects or property given or transferred to, made with, or vested in any former Treasurer, by virtue or on account of his office, and shall transfer all the interest, rights and estate of the former Treasurer to the Treasurer for the time being to be vested in him by virtue of his office and subject to this Act. R.S.O. 1937, c. 21, s. 4.

Settlement
and refund-
ing of
municipal
debentures.

(4) Where a municipality fails to pay any debenture held by the Treasurer or interest thereon as the same becomes due, the Treasurer may negotiate and accept a settlement in payment and satisfaction of the indebtedness and may exchange the debenture for a new debenture issued by the municipality payable at such time or times and upon such terms as may be agreed. 1939, c. 47, s. 5.

How public
moneys to
be paid.

5. If any sum of the public moneys is by an Act appropriated for any purpose, or directed by the judgment of any court or the award of arbitrators or other lawful authority to be paid by the Lieutenant-Governor, and no other provision is made respecting it, such sum shall be payable under warrant of the Lieutenant-Governor, directed to the Treasurer of Ontario, out of the Consolidated Revenue Fund, and all persons entrusted with the expenditure of any such sum, or any part thereof, shall account for the same in such manner and form, with such vouchers, at such periods and to such officer, as the Lieutenant-Governor may direct. R.S.O. 1937, c. 21, s. 5.

Treasurer -
authorized
to accept
certain gifts
and
bequests.

6.—(1) The Treasurer of Ontario may accept from any person gifts or bequests for the permanent endowment of any charitable or educational object in Ontario, and may invest the same in such securities as the Lieutenant-Governor in Council may direct.

Application
of income.

(2) The Treasurer of Ontario shall pay interest upon such gifts or bequests to such persons in such manner and under such conditions as the Lieutenant-Governor in Council may direct for the purpose of, and according to such bequests, at a rate not exceeding four per cent per annum in the case of a charitable object, and at a rate not exceeding five per cent per annum in the case of an educational object, and the same shall be a charge upon and payable out of the Consolidated Revenue Fund. R.S.O. 1937, c. 21, s. 6.

CHAPTER 65

The Constitutional Questions Act

1. The Lieutenant-Governor in Council may refer to the Court of Appeal or to a judge of the Supreme Court for hearing and consideration any matter which he thinks fit, and the court shall thereupon hear and consider the same. R.S.O. 1937, c. 130, s. 1. Reference to court authorized.

2. The court shall certify to the Lieutenant-Governor in Council its opinion on the matter referred, accompanied by a statement of the reasons therefor, and any judge who differs from the opinion may in like manner certify his opinion and his reasons. R.S.O. 1937, c. 130, s. 2. Court to certify opinion.

3. Where the matter relates to the constitutional validity of any Act of the Legislature, or of some provision thereof, the Attorney-General for Canada shall be notified of the hearing in order that he may be heard if he sees fit. R.S.O. 1937, c. 130, s. 3. Notice to Attorney-General of Canada.

4. The court shall have power to direct that any person interested, or where there is a class of persons interested, any one or more persons as representatives of such class, shall be notified of the hearing, and such persons shall be entitled to be heard. R.S.O. 1937, c. 130, s. 4. Notice to persons interested.

5. Where any interest affected is not represented by counsel, the court may request counsel to argue the case in such interest, and the reasonable expenses thereof shall be paid by the Treasurer of Ontario out of any money appropriated by the Legislature and applicable for that purpose. R.S.O. 1937, c. 130, s. 5. Appointment of counsel to argue case for un-represented interests.

6. The opinion of the court shall be deemed a judgment of the court, and an appeal shall lie therefrom as from a judgment in an action. R.S.O. 1937, c. 130, s. 6. Appeal.

7. Where an appeal is had to the Court of Appeal, sections 2 to 6 shall apply as if the original reference had been to the Court of Appeal. R.S.O. 1937, c. 130, s. 7. Enactments applicable to appeals.

CHAPTER 66

The Continuation Schools Act**1. In this Act,**Interpre-
tation.

- (a) "continuation school district" means the property liable to assessment and taxation for the purposes of the continuation school;
- (b) "county pupils" means pupils,
 - (i) who reside with their parents or guardians, or
 - (ii) who or whose parents or guardians are assessed for an amount equal to the average assessment of the ratepayers,

in that part of the county which is not within a city or separated town or within a high school or grade A or grade B continuation school district, but does not include pupils residing with their parents or guardians on land which is exempt from taxation for school purposes, who and whose parents or guardians are not assessed for, and do not pay, taxes for school purposes in a municipality in the county;

- (c) "maintenance" includes repairs to the teacher's residence, the school buildings, outhouses, gymnasium, fences and school furniture; altering the system of heating or ventilation; erection of fences; improvement of the school grounds and the grounds attached to the teacher's residence; insurance on the school property; salaries of the teachers, officers and other employees of the board; contributions to a superannuation or pension fund for the benefit of teachers, officers and other employees of the board; fees payable in respect of resident pupils in attendance at high schools and continuation schools outside the continuation school district; the expense of conducting examinations; interest charges on temporary loans made for the purposes of the board and other expenses for ordinary school purposes, and for such annual additions to the library, apparatus and other

appliances as may be required by the Minister or by the regulations; gratuities and retiring allowances granted to teachers, officers and other employees;

- (d) "Minister" means Minister of Education;
- (e) "municipality" includes a city, town, village or township, but not a county;
- (f) "non-resident pupils" means pupils other than county pupils and resident pupils as defined herein;
- (g) "permanent improvements" includes the purchase or rental of a residence for a teacher or of a school site, the erection or rental of a schoolhouse, the enlargement of both or either of them, the erection of outhouses and gymnasium and other buildings or fixtures to be used for the purpose of carrying on such school activities as are specified or permitted by the regulations, the purchase of school furniture, maps and apparatus, library and all other appliances required by the regulations;
- (h) "regulations" means regulations made under *The Department of Education Act* or this Act.
- (i) "resident pupils" means pupils,
 - (i) who reside with their parents or guardians, or
 - (ii) who or whose parents or guardians are assessed for an amount equal to the average assessment of the ratepayers,

within the limits of a grade A or grade B continuation school district, but does not include pupils residing with their parents or guardians on land which is exempt from taxation for school purposes, who and whose parents or guardians are not assessed for, and do not pay, taxes for school purposes in a municipality within the district. R.S.O. 1937, c. 359, s. 1; 1938, c. 35, s. 3 (2, 3); 1947, c. 17, s. 1; 1948, c. 16, s. 1; 1949, c. 16, s. 1.

Regulations
re require-
ments for
grade A or
B schools.

2.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations prescribing the requirements for schools which may be classified as grade A and grade B continuation schools respectively.

(2) Subject to the regulations, the Minister may classify each continuation school as a grade A or grade B continuation school. 1947, c. 17, s. 2. Classification of continuation schools.

3.—(1) Subject to the regulations and to the approval of the Minister, the public school board of a municipality, school section or township school area or a separate school board may establish and maintain a continuation school with a staff of at least two full-time teachers, and for continuation school purposes such board shall be a body corporate and shall be styled “The Board of Trustees of the Continuation School of”. Establishment of continuation schools.

(2) The board shall have in respect of the continuation school all the powers conferred on public or separate school boards as to acquiring a school site, erecting buildings and additions to existing buildings, and providing equipment for and paying the cost of permanent improvements, and of the maintenance of such continuation schools. Powers of board.

(3) The board shall have, in respect of the continuation school, the same powers as a high school board to provide for the transportation of resident and county pupils. Idem.

(4) Subject to the regulations and to the approval of the Minister, agreements may be entered into by two or more public school boards or by one or more of such boards and one or more separate school boards for the establishment and maintenance of a continuation school to be conducted in some place agreed upon by the boards for the benefit of the pupils from all such schools, and any such agreement shall specify the proportion of the cost of the establishment and maintenance of the continuation school to be paid by each of such boards or shall provide for the manner in which such proportion shall be determined. 1947, c. 17, s. 3, *part*. Agreements between boards for joint maintenance and establishment.

(5) A continuation school established under subsection 4 shall be under the control and management of a board composed of not more than two-thirds of the members of each of the boards by which it is established who shall be appointed by such boards respectively at the first regular meeting in each year. 1947, c. 17, s. 3, *part*; 1949, c. 16, s. 2 (1). Management of continuation school under board.

(6) The board shall be a body corporate and shall be styled “The Board of Trustees of the Continuation School of” Board to be body corporate.
(inserting a name selected by the board and approved by the Minister). 1947, c. 17, s. 3, *part*; 1949, c. 16, s. 2 (2).

(7) The board shall have the same powers as are vested in a board under subsections 2 and 3. Powers of board.

Apportionment of cost in union school sections.

(8) Where the board of a union school section establishes or enters into an agreement with any other board for the establishment of a continuation school, the council of each municipality included, or part of which is included in the union school section, shall levy and collect upon the taxable property in the union school section within its jurisdiction its share of the expense of establishing and maintaining the continuation school according to the equalized assessment as provided by *The Public Schools Act* of the part of the union school section contained in the municipality.

Rev. Stat., c. 316.

Levy for school established by separate school board.

(9) Where a continuation school is established by one or more separate school boards, the amount to be levied shall be levied upon the supporters of separate schools established by such board or boards.

County representative for school board.

(10) Where a continuation school district lies wholly within a county, the council of the county shall have the right to appoint one member to the board of trustees which has the control and management of the continuation school, and where the continuation school district comprises parts of more than one county the council of each county shall have the right to appoint one member to the said board, and any or all of such additional members may reside in the county or counties to represent which he or they are appointed outside the continuation school district and such trustees shall hold office for two years and until their successors have been duly appointed and shall have all the duties, rights, powers and privileges of other members of the board in all matters relating to continuation schools.

County representative not to vote on public school matters.

(11) A member of a board of a continuation school who is appointed by the county council shall not vote or otherwise take part in any of the proceedings of the board exclusively affecting the public school or schools which are under the control and management of the board.

Board and maintenance where township school area absorbs continuation school.

(12) Where a township school area absorbs a former school section in which a continuation school has been established under subsection 1, or two or more former school sections the boards of which have established a continuation school by agreement under subsection 4, then at the option of the township council and subject to the approval of the Minister,

- (a) the township school area board shall constitute the continuation school board, and the cost of maintaining the continuation school shall be provided by a rate levied on the property liable to assessment for public school purposes in the township school area; or

- (b) trustees shall be elected for the purpose of the continuation school by the ratepayers of the former school section or sections under whose control and management the continuation school was established, in the same manner as though such section or sections had not been included in the township school area, and the cost of maintaining the continuation school shall be provided by a rate levied on the property liable to assessment for public school purposes in such former school section or sections.

(13) Where a township school area absorbs a former school ^{Idem.} section or sections the board or boards of which have established a continuation school by agreement under subsection 4 in conjunction with one or more separate school boards, then at the option of the township council and subject to the approval of the Minister,

- (a) the township school area board and two members appointed by each separate school board which entered into the agreement under subsection 4 shall constitute the continuation school board, and the cost of maintaining the continuation school shall be provided by a rate levied on the property liable to assessment for public school purposes in the township school area and by a rate levied on the property of the separate school supporters liable to assessment under the terms of the agreement; or

- (b) trustees shall be elected for the purpose of the continuation school by the ratepayers of the former school section or sections and appointed by the separate school board or boards, under whose joint control and management the continuation school was established, in the same manner as though such school section or sections had not been included in the township school area, and the cost of maintaining the continuation school shall be provided by a rate levied on the property liable to assessment for public school purposes in such former school section or sections and by a rate levied on the property of the separate school supporters liable to assessment under the terms of the agreement; provided that two trustees only shall be elected by the ratepayers of each former school section and two trustees only shall be appointed by each separate school board.

(14) Where a township school area absorbs some but not all of the school sections the boards of which have established ^{Where all school sections not absorbed.}

a continuation school by agreement under subsection 4, whether in conjunction with one or more separate school boards or not, the continuation school board shall be composed of,

- (a) the township school area board;
- (b) two members of each separate school board, if any, which is a party to the agreement; and
- (c) where the board of a school section which is not absorbed in the township school area, is a party to the agreement, two members of such board. 1947, c. 17, s. 3, *part*.

Where
section
in which
school
established
not
absorbed.

(15) Notwithstanding subsection 14, where the school section in which the continuation school was established by agreement under subsection 4 is not absorbed in the township school area, the township council may, subject to the approval of the Minister, provide that the continuation school board shall be composed of,

- (a) one trustee to be elected annually by the ratepayers of each of the former school sections which are parties to the agreement and are absorbed in the township school area, in the manner provided in *The Public Schools Act* for the election of rural school trustees, and the cost of such elections shall be borne by the continuation school board;
- (b) two trustees to be appointed annually from among its members by the board of the school section which is a party to the agreement and in which the continuation school is situated;
- (c) one trustee to be appointed annually from among its members by the board of each other school section which is a party to the agreement and is not absorbed in the township school area; and
- (d) one trustee to be appointed annually from among its members by each separate school board, if any, which is a party to the agreement.

Rev. Stat.,
c. 316.

Elections
under
subs. 15,
cl. a.

(16) Where the township council decides that the board shall be composed as provided in subsection 15,

- (a) it shall notify the secretary of the continuation school board who shall call meetings of the ratepayers of each of the former school sections absorbed

in the township school area which are parties to the agreement, for the purpose of electing a trustee from each such former section who shall hold office for one year; and

- (b) upon a trustee being elected under clause *a*, the chairman of the meeting at which the trustee was elected shall notify the secretary of the continuation school board of the name of the trustee.

(17) Where the continuation school board is constituted as provided in subsection 14, the cost of maintaining the continuation school shall be provided by a rate levied, Maintenance, where board constituted under subs. 14.

- (a) on the property liable to assessment for public school purposes in the township school area;
- (b) on the property liable to assessment for public school purposes in any school section which is a party to the agreement and is not absorbed in the township school area; and
- (c) on the property, if any, liable to assessment for separate school purposes under the terms of the agreement.

(18) Where the continuation school board is constituted as provided in subsection 15, the cost of maintaining the continuation school shall be provided by a rate levied, where board constituted under subs. 15.

- (a) on the property liable to assessment for public school purposes in any school section which is a party to the agreement and is not absorbed in the township school area;
- (b) on the property liable to assessment for public school purposes in the former school sections which are parties to the agreement and are absorbed in the township school area; and
- (c) on the property, if any, liable to assessment for separate school purposes under the terms of the agreement. 1950, c. 10, s. 1.

4.—(1) Subject to the approval of the Minister, the board of a continuation school established under subsection 1 of section 3 may by resolution dissolve the continuation school, whereupon all the assets and liabilities of the board shall become assets and liabilities of the board by which it was established. 1946, c. 12, s. 2, *part.* Dissolution of continuation school.

Idem.

(2) Subject to the approval of the Minister, the board of a continuation school established under subsection 4 of section 3 may by resolution dissolve the continuation school, whereupon all the assets and liabilities of the board shall become assets and liabilities of the respective boards by which it was established according to the terms of the agreement entered into thereunder. 1946, c. 12, s. 2, *part*; 1947, c. 17, s. 4.

Where
continuation
school
district
absorbed
as part of
high school
district.

(3) Where a continuation school district is absorbed as part of a high school district and the continuation school is dissolved, the high school board and the boards by which such school was established shall each appoint a representative who, with the clerk of each municipality which, or any part of which, was included in the continuation school district, shall be arbitrators to value and determine the rights and obligations of each board with respect to,

(a) the assets and liabilities of the continuation school board; and

(b) the disposition of the property of the board,

and in the event of dispute the matter shall be referred to the county or district judge having jurisdiction. 1946, c. 12, s. 2, *part*; 1948, c. 16, s. 2.

Providing
money
required
for main-
tenance.

5.—(1) All sums required to be provided for the support of a continuation school established under section 3 after deducting from the expenditures the legislative and county and other municipal grants, shall be provided for by a rate levied,

(a) where the school is established by the board of an urban municipality or of a public school section, or by the board of an urban municipality and one or more public school sections, or by the boards of two or more public school sections, on the property liable to assessment and taxation for public school purposes in such municipality or school section or sections;

(b) where the school is established by the board of one or more separate schools, on the property liable to assessment and taxation for separate school purposes;

(c) where the school is established by one or more public school boards and one or more separate school boards, on the property liable to assessment and taxation for public school purposes in the municipality or section or sections and on the property liable to assessment and taxation for separate school purposes, in the proportions fixed by or under the agreement for the establishment of the school.

(2) The board having jurisdiction over a continuation school shall prepare and submit to the municipal council or councils liable under this Act on or before such time as the council may prescribe, estimates for the current year of all sums required to be provided by the council to meet expenditures for the continuation school, and these estimates shall be separate from those relating to public or separate schools and shall show the amount of any surplus or deficit remaining at the end of the preceding year, and the revenues estimated to be derived from legislative grants, any county or other municipality, fees, and from all other sources. R.S.O. 1937, c. 359, s. 4.

Estimates, to be submitted to municipal council.

6.—(1) No fees shall be payable by or in respect of a pupil attending a continuation school who is,

Certain pupils not liable for fees.

(a) a resident pupil of the continuation school district by the board of which the school is established or maintained;

(b) a pupil whose cost of education is payable under section 8. R.S.O. 1937, c. 359, s. 5 (1); 1938, c. 35, s. 4 (1); 1949, c. 16, s. 3 (1).

(2) Where,

Fees payable by boards in certain cases.

(a) a resident pupil of a continuation school district in a county attends a continuation or high school in his own county but outside of his school district or a continuation or high school which has been declared open to such pupils in an adjoining county or in a city or separated town in his own or an adjoining county; or

(b) a resident pupil of a continuation school district in a territorial district attends a continuation or high school in Ontario but outside of his school district,

because the continuation or high school is more accessible to the pupil than any continuation school in his own school district or provides a course of study not offered in his own school district, the board of the continuation school district of which he is a resident pupil shall pay fees to the board of the continuation or high school district whose school he attends, calculated in accordance with section 42 of *The High Schools Act*, except that legislative grants shall not be deducted as provided in clause c of subsection 1 thereof.

Rev. Stat., c. 165.

Interpre-
tation.

(3) In subsection 2, "course of study" means subjects which are sufficient for the granting of any type of secondary school graduation diploma provided for in the regulations. 1949, c. 16, s. 3 (2).

Calculation
of grants.

(4) The fees paid in any year under subsection 2 for the preceding calendar year shall be included in the cost of operating the school conducted by the board paying the fees and shall be deducted by the board providing the instruction from the cost of operating the school attended by such pupils before reporting such cost as a basis for the payment of legislative grants. 1948, c. 16, s. 3 (2).

Fees of
continuation
school
pupils.

(5) Pupils other than those mentioned in subsections 1 and 2 shall pay such fees as may be prescribed by the board, but such fees shall not be greater than the average cost per pupil for education in the continuation school. R.S.O. 1937, c. 359, s. 5 (2); 1938, c. 35, s. 4 (3).

Payment of
lump sum
in lieu of
fees.

(6) The board of any other public or separate school may agree with the board by which the continuation school is established or the board of the continuation school, as the case may be, for the payment by such first-mentioned board of a lump or other annual sum in lieu of the fees payable under subsection 5. R.S.O. 1937, c. 359, s. 5 (3).

Agreements
between
council
and con-
tinuation
school board
validated.

(7) The council of a county or of any municipality may enter into an agreement with the continuation school board of any other municipality for the payment of the whole or part of any fees imposed on non-resident pupils attending a continuation school under the control of the board of such municipality. R.S.O. 1937, c. 359, s. 5 (4), *part*.

Attendance
at continua-
tion school.

(8) Notwithstanding subsection 1 no pupil who having completed the fourth form course in a public or separate school has attended any other school or schools for six years shall after the expiration of such six years be entitled to attend a continuation school except upon payment of such fees as may be prescribed by the board, but such fees shall not be greater than the average cost per pupil for education in such continuation school. R.S.O. 1937, c. 359, s. 5 (5).

Where con-
tinuation
schools not
to be estab-
lished.

Rev. Stat.,
c. 165.

7.—(1) A continuation school shall not be established or maintained in any part of a high school district established in accordance with section 5 of *The High Schools Act*, nor shall such school be established in a city or separated town in which a high school has been established in accordance with section 9 of the same Act. R.S.O. 1937, c. 359, s. 7; 1938, c. 35, s. 6 (1).

(2) A continuation school shall not be maintained in a city or separated town unless such continuation school has been established prior to the 18th day of April, 1933, and is maintained in such district with the approval of the Minister, pending the establishment of a high school in accordance with section 9 of *The High Schools Act*. 1938, c. 35, s. 6 (2).

Continuation school in city or separated town.

Rev. Stat., c. 165.

(3) Where a high school district established under *The High Schools Act* includes within its limits any property within a continuation school district, such property shall not be assessed for the purposes of the continuation school. 1950, c. 10, s. 3.

Overlapping high and continuation school district boundaries. Rev. Stat., c. 165.

8. The cost of education of county pupils attending grade A and grade B continuation schools shall be paid by the county council to the continuation school boards concerned and shall be charged, levied and collected in the manner provided in sections 41 to 45 of *The High Schools Act*. R.S.O. 1937, c. 359, s. 8 (1); 1939, c. 44, s. 5.

Cost of education of county pupils.

Rev. Stat., c. 165.

9.—(1) The council of the county may contribute such further sum as it may deem expedient towards permanent improvements or to the maintenance of continuation schools situate in the county, but any sum so contributed, except as provided by subsection 2, shall be apportioned among all such continuation schools in proportion to the amount which the council is required to contribute to their support.

Additional contribution by county council.

(2) The council of a county may by a two-thirds vote of all the members thereof pass by-laws for granting additional aid to any one or more of the continuation schools in the county without making a similar provision for the other continuation schools therein.

May be for aid to some only of the schools.

(3) The council of united counties may apportion the amount to be levied for continuation schools so that each county in the union shall be liable only for sums payable in respect to continuation schools situate therein, but in such case each of the counties shall pay for the maintenance of pupils residing therein who attend any continuation school situate in any other of the counties.

Apportionment between counties in a union.

(4) Where agricultural training is provided for, in accordance with the regulations, in a continuation school, the council of the county in which the continuation school is situate may, on or before the 15th day of December in each year, pay to the board of the school in which such training is so provided such sums as it may deem expedient, which shall be applied by the board to the purposes of such training. R.S.O. 1937, c. 359, s. 9 (1-4).

Agricultural training in continuation schools.

Grant for
agricultural
department.

(5) Where an agricultural department is established by the Minister in a grade A continuation school the council of the county in which the grade A continuation school is situate shall on or before the 15th day of December in each year, pay to the board of the school in which such department is established, the sum of \$500, chargeable to the general county levy, which shall be applied by the board to the purposes of such department. 1938, c. 35, s. 7; 1939, c. 44, s. 6.

Apportion-
ment with
schools
situate in
municipality
or section
forming
part of
two or more
counties.
Rev. Stat.,
c. 316.

(6) Where the continuation school is situate in an urban municipality or in a union school section, parts of which are in two or more counties, the amount payable under subsections 1 and 4 by the corporation of each county shall be determined in the manner provided by section 40 of *The Public Schools Act*. R.S.O. 1937, c. 359, s. 9 (5).

Right of
exemption
of contri-
buting
muni-
cipalities.

10.—(1) Where a municipality is called upon to pay a part of the cost of education of county pupils under section 8, all parts of such municipalities as are included in grade A and grade B continuation school districts shall be exempt from paying any part of such cost paid by the municipality. R.S.O. 1937, c. 359, s. 10; 1938, c. 35, s. 8 (1).

County
levy.

(2) Notwithstanding subsection 1, the county levy shall include a levy upon and against the whole rateable property of ratepayers who reside in grade A or grade B continuation school districts, but against whose property no levy for maintenance of the continuation schools in such continuation school district is made. 1938, c. 35, s. 8 (2).

Admission
of pupils.

11. Pupils whether resident or non-resident may be admitted to a continuation school in accordance with the regulations governing the admission of pupils to high schools. R.S.O. 1937, c. 359, s. 11.

Qualification
of teachers.

12. Every teacher appointed as principal or assistant in a continuation school shall possess the qualifications prescribed by the regulations. R.S.O. 1937, c. 359, s. 12.

Courses of
study.

13. The courses of study in continuation schools shall be such as are prescribed by the regulations. R.S.O. 1937, c. 359, s. 13.

Application
of Rev.
Stat., c. 316.

14. Such of the provisions of *The Public Schools Act* in the case of a continuation school under the jurisdiction of a public school board or a board established under section 3 of this Act as are applicable and are not inconsistent with this Act, shall be read as part of this Act. R.S.O. 1937, c. 359, s. 15; 1941, c. 52, s. 4; 1947, c. 17, s. 6.

CHAPTER 67

The Controverted Elections Act

1. In this Act,

Interpre-
tation.

- (a) "candidate at an election" or "candidate" means a person elected to serve in the Assembly, or a person who is nominated as a candidate at an election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for an election, or after the dissolution or vacancy in consequence of which the writ has been issued;
- (b) "corrupt practice" has the meaning assigned to it by *The Election Act*; Rev. Stat., c. 112.
- (c) "county" includes united counties and a district;
- (d) "county court" includes district court;
- (e) "court" means Court of Appeal;
- (f) "election" means an election of a member to serve in the Assembly;
- (g) "election court" means a court constituted under this Act for the trial of a petition or a summary trial court constituted under this Act for the trial of persons charged with corrupt practices or illegal acts;
- (h) "election list" means the list of petitions referred to in section 32;
- (i) "member" means member of the Assembly;
- (j) "petition" means a petition presented under this Act;
- (k) "prescribed" means prescribed by this Act or by rules of court;
- (l) "public moneys" includes the moneys of Ontario or of a municipality;

- (m) "registrar" means registrar of the Court of Appeal;
- (n) "rules of court" means rules made as hereinafter provided;
- (o) "Speaker" means Speaker of the Assembly, or, when the office is vacant, the Clerk of the Assembly, or any other officer for the time being performing the duties of the Clerk. R.S.O. 1937, c. 11, s. 1.

Jurisdiction.

2. The Supreme Court shall, subject to this Act, have the same powers, jurisdiction and authority with reference to a petition and the proceedings thereon as it would have if the petition were an ordinary action within the jurisdiction of that court. R.S.O. 1937, c. 11, s. 2.

Practice and procedure.

3.—(1) Where not otherwise herein provided and subject to rules of court the practice and procedure of the Supreme Court shall apply to a petition and to the proceedings thereon with respect to,

- (a) service of the petition and of all other documents;
- (b) payment into and out of court;
- (c) examination for discovery;
- (d) production and inspection of documents;
- (e) costs and the taxation and recovery thereof;
- (f) all other matters of practice or procedure.

Saving.

(2) Nothing in this section shall extend or shall confer the right to extend the time for the presentation of a petition. R.S.O. 1937, c. 11, s. 3.

RULES OF COURT**Power to make rules of court.**

4. Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee may make general rules not inconsistent with this Act for the effectual execution thereof, and the regulation of the practice and procedure and as to costs. R.S.O. 1937, c. 11, s. 4 (1); 1941, c. 55, s. 7.

Present rules and practice in cases not provided for.

5. The rules of court now in force shall remain in force until revoked or altered by rules of court made in pursuance of this Act; and, so far as the rules of court from time to time in force do not extend, the principles, practice and rules on

which election petitions touching the election of members to the House of Commons of the United Kingdom were on the 15th day of February, 1871, dealt with, where not inconsistent with this Act, shall be observed. R.S.O. 1937, c. 11, s. 5.

PRESENTATION OF PETITION

6. A petition may be presented to the court complaining of an undue return or undue election of a member, or of no return, or of matters contained in a special return, or of a corrupt practice by a candidate not returned by which he is alleged to have become disqualified to sit in the Assembly. R.S.O. 1937, c. 11, s. 6.

Subject
matter of
petition.

7. A petition may be presented by,

By whom
petition may
be presented.

(a) a person who has a candidate at the election; or

(b) three persons who voted or who had a right to vote at the election and who are severally rated on the last revised assessment roll in respect of real property in the electoral district for at least \$1,000. R.S.O. 1937, c. 11, s. 7.

8. Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time; but the petition shall be deemed to be a separate petition against each respondent. R.S.O. 1937, c. 11, s. 8.

Who may
be made
respondents.

9. Where a petition complains of the conduct of a returning officer, he shall, for all the purposes of this Act, except the admission of a respondent in his place, be deemed to be a respondent. R.S.O. 1937, c. 11, s. 9.

Petition
complaining
of a
returning
officer.

10. Where a petition complains of no return the court may make such order thereon as it thinks expedient for compelling a return to be made, or may allow the petition to be tried by an election court in the manner herein provided with respect to other petitions. R.S.O. 1937, c. 11, s. 10.

Petition
complaining
of no return.

11. The petition shall be presented within 45 days after the day on which the polling was held for the election named in the petition, unless it questions the return or election upon an allegation of corrupt practices, and specifically alleges a payment of money or other act by the member or on his account, or with his privity, since the time of the return, in pursuance or in furtherance of such corrupt practices, in

Petition,
when to be
presented.

which case the petition may be presented at any time within the said period of 45 days or within 28 days after the date of such payment or act. R.S.O. 1937, c. 11, s. 11.

Form of petition, and by whom to be signed.

12. A petition shall be in such form and state such matters as may be prescribed, and shall be signed by the petitioner, or all the petitioners, if there are more than one. R.S.O. 1937, c. 11, s. 12.

Cross petition on account of corrupt acts.

13. If a petition is presented against the return of a member, the respondent or any other persons authorized by law to present a petition, may, within 15 days after the service of the petition against the return, present a petition complaining of any corrupt practice by any candidate at the same election who was not returned, whether the seat is or is not claimed by him, or on his behalf, and the trial of such petition shall take place at the same time as the trial of the petition against such member or respondent, or at such other time as may be appointed. R.S.O. 1937, c. 11, s. 13.

Presentation of petition.

14.—(1) Presentation of a petition in a case arising in the County of York or the City of Toronto shall be made by delivering it to the registrar, and in other cases by delivering it to the local registrar of the Supreme Court for the county or district in which the electoral district or any part thereof is situate, or otherwise dealing with the same in the manner prescribed.

Notice to registrar.

(2) On receipt of a petition by a local registrar he shall send notice thereof by registered post to the registrar.

Notice to Clerk of the Crown in Chancery.

(3) The registrar shall send a notice by registered post to the Clerk of the Crown in Chancery of the presentation of every petition. R.S.O. 1937, c. 11, s. 14.

Verification.

15.—(1) With every petition shall be filed an affidavit by each of the petitioners, referring or annexed to the petition, stating that the deponent presents the petition in good faith, and with actual knowledge of the allegations therein contained, and has reason to believe and does believe the statements contained therein to be true in substance and in fact and all particulars afterwards furnished by either party shall be verified by the affidavit of the person furnishing such particulars.

Cross-examination.

(2) The respondent may cross-examine any petitioner upon any such affidavit made by such petitioner and may move for the dismissal of the petition, and if the court or a judge is satisfied that the petitioner is not acting in good

faith or has not reason to believe or does not believe any statements contained in such affidavit, or the petition or particulars verified by such affidavit, the petition shall be dismissed and all proceedings thereunder terminated on such terms as the court or a judge may direct. R.S.O. 1937, c. 11, s. 15.

16.—(1) On the presentation of a petition against the return of a member, the officer with whom the same is filed shall send a copy thereof by mail to the returning officer of the electoral district to which the petition relates, who shall forthwith publish a notice thereof once in a newspaper published in the district, or, if there is no newspaper published in the district, then in a newspaper published in an adjoining district.

Publication
of notice of
petition.

(2) The notice may be in the form following:

Form of
notice.

Notice is hereby given that.....has
presented a petition to the Supreme Court of Ontario, under
The Controverted Elections Act, against the return of.....
.....Esquire, as a member of the Legislative
Assembly for the Electoral District of.....
[and (*where the seat is claimed*) claiming the seat for.....
.....or as the case may be.]
Dated at.....the.....day of....., 19..
Returning Officer.

R.S.O. 1937, c. 11, s. 16.

17.—(1) A disclaimer by the member-elect under *The Legislative Assembly Act* shall not affect the right of any person entitled to contest the election to present a petition claiming the seat for himself or for some other person, nor the liability of the person disclaiming in respect of corrupt practices against whom a petition may be presented in the same manner as if he had not disclaimed.

Disclaimer.
Rev. Stat.,
c. 202.

(2) In case of a petition claiming the seat for the petitioner or some other person the election court shall determine whether any candidate other than the member who has disclaimed was duly elected and the candidate declared by the election court duly elected shall be entitled to the seat. R.S.O. 1937, c. 11, s. 17.

When seat
claimed.

18. The officer receiving a copy of the disclaimer under subsection 2 of section 17 of *The Legislative Assembly Act* shall give notice of such disclaimer to any person who has filed, or who may thereafter present to be filed a petition against the member disclaiming. R.S.O. 1937, c. 11, s. 18.

Notice of
disclaimer.

Permitting
petition to be
filed where
corruption
charged.

19. Notwithstanding such disclaimer, a judge of the court, upon the application of any voter in the electoral district within 10 days after the registrar has received notice of the disclaimer, upon its being made to appear that corruption has extensively prevailed at the election, may permit a petition to be filed in the same manner as though no such disclaimer had been made, or may, upon the grounds aforesaid, permit proceedings upon any petition which has been filed to proceed upon such terms as he may think fit. R.S.O. 1937, c. 11, s. 19.

SECURITY FOR COSTS

Security for
costs.

20. At the time of the presentation of every petition, or within four days afterwards, security shall be given on behalf of the petitioner for the payment,

- (a) to the returning officer and the sheriff of the costs and charges incurred in the publication of notices in the electoral district, in respect of the petition or proceedings thereon, which shall form a first charge upon the security; and
- (b) of all costs, charges and expenses that may become payable by the petitioner to,
 - (i) every person summoned as a witness on his behalf,
 - (ii) the member or candidate against whom the petition is presented, and
 - (iii) the returning officer if his conduct is complained of. R.S.O. 1937, c. 11, s. 20.

How made.

21. The security shall be a deposit of \$1,000 in one of the banks in which public money of Ontario is then being deposited, and the deposit shall be made to the credit of the petition with the privity of the Accountant of the Supreme Court. R.S.O. 1937, c. 11, s. 21.

SERVICE OF PETITION

Service of
petition.

22.—(1) A copy of the petition, together with notice of the presentation thereof, shall be served upon the respondent within 10 days after the day on which security is given or within such further period as the court or a judge thereof under special circumstances of difficulty in effecting service and on application made not later than three days after the expiration of such 10 days, may allow.

(2) The service shall be made as nearly as may be in the ^{Manner.} manner in which a writ of summons is served or in such other manner as may be prescribed.

(3) By leave of the court or a judge the service may be ^{Out of} made out of Ontario. R.S.O. 1937, c. 11, s. 22.

PRELIMINARY EXAMINATION; PRODUCTION OF DOCUMENTS

23. Every party to a petition may, at any time after the petition is at issue, be examined, in the manner hereinafter directed, by a party adverse in interest, touching any matter raised by the petition; and any party so examined may be further examined on his own behalf in relation to any matter respecting which he has been examined in chief; and when one of several petitioners or respondents has been so examined, any other petitioner or respondent, united in interest, may be examined on his own behalf, or on behalf of those united with him in interest, to the same extent as the party examined; but the explanatory examination shall be proceeded with immediately after the examination in chief, and not at any future period, except by leave of the court or a judge. R.S.O. 1937, c. 11, s. 23. ^{When and how parties to petition may be examined.}

24. Where a petition has been filed against a member elect who is entitled to take his seat, he shall not without his consent be required to attend on any preliminary examination during a session of the Assembly. R.S.O. 1937, c. 11, s. 24. ^{Member not required to attend on preliminary examination during session.}

25. Where a party to a petition deems that a preliminary examination is being carried on for an unreasonable length of time, he may apply to a judge of the court, on giving two clear days notice to the opposite party, for an order that no further examination shall be had or that the examination shall be closed by a day to be named, and the judge may make an order accordingly or may make such other order as appears just and reasonable. R.S.O. 1937, c. 11, s. 25. ^{Stay of examination ordered.}

26. A candidate for whom the seat is claimed although not a party to the petition may be orally examined as if he were a petitioner, and for the purpose of production of documents shall be deemed to be a petitioner. R.S.O. 1937, c. 11, s. 26. ^{Examination of candidate claiming seat.}

27.—(1) A party to be examined orally shall be examined before a judge of the county court, the registrar or a local master or special examiner of the Supreme Court, or ^{How examination of parties to be had.}

by consent of the parties, before a barrister-at-law specially named in the order for examination.

Costs of preliminary examinations.

(2) The costs of and incidental to every preliminary examination shall be borne by the party procuring the examination, and shall not in any event be chargeable against the other party, or against the deposit in court. R.S.O. 1937, c. 11, s. 27.

Depositions to be filed.

28. When the examination is concluded, the original depositions, authenticated by the signature of the examiner, shall be transmitted by him to the office where the petition is filed; and any party to the petition shall be entitled to a copy of the depositions, or any part thereof, upon payment for the same at such rate as may be prescribed. R.S.O. 1937, c. 11, s. 28.

Production of bills and vouchers.

Rev. Stat., c. 112.

29.—(1) If a preliminary examination is had, the returning officer to whom the bills and vouchers relating to the election have been delivered as provided by *The Election Act* may be subpoenaed to produce the bills and vouchers for the purposes of the examination.

Custody.

(2) Immediately upon the close of the examination the bills and vouchers shall be returned to the returning officer and verified copies thereof may be made and filed as exhibits in lieu of the originals. R.S.O. 1937, c. 11, s. 29.

Attendance of prisoners as witnesses.

30. Where the party to be examined is a prisoner, the sheriff, jailer or other officer having him in custody shall take him before the examiner if so ordered by the court or a judge. R.S.O. 1937, c. 11, s. 30.

Depositions may be used on trial.

31. Every party to the petition shall be entitled to use upon the trial depositions of the opposite party; but where such party uses any portion of a deposition, the election court may look at the whole deposition and allow such other part of it as is explanatory of the part used to be read in connection therewith. R.S.O. 1937, c. 11, s. 31.

TRIAL OF PETITIONS

List of petitions.

32.—(1) The registrar shall as soon as possible make out a list of all petitions which are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of the list, open to the inspection of any person making application, and the petitions, as far as conveniently may be, shall be tried in the order in which they stand on the list.

† (2) Where more petitions than one relating to the same election or return are presented, they shall in the election list be bracketed together and shall be dealt with as far as practicable as one petition; but the petitions shall stand on the election list in the place where the last of them would have stood if it had been the only petition presented, unless the court otherwise directs. R.S.O. 1937, c. 11, s. 32.

Several petitions relating to same election, how placed on election list.

33. Every petition shall be tried by two judges of the Supreme Court without a jury. R.S.O. 1937, c. 11, s. 33.

Trial to be by two judges.

34.—(1) All such arrangements as may be necessary for the holding of the election courts and the assignment from time to time of the judges before whom the election trials and trials of persons charged with corrupt practices are to take place shall be made by the judges of the Supreme Court or a majority of them.

Assignment of judges for trial of petitions.

(2) Where occasion for so doing arises the judges of the Supreme Court, or a majority of them, may at any time substitute for any judge assigned to hold an election court any other judge of the Supreme Court.

Substitution.

(3) The judges of the Supreme Court, or a majority of them, may from time to time delegate to such of their number, not being less than four, as they may see fit, the duties mentioned in subsection 1 or any of them. R.S.O. 1937, c. 11, s. 34.

Delegation of duties.

35.—(1) The Lieutenant-Governor in Council may appoint a registrar to be called the registrar of the election court, who shall attend the trials of petitions and perform such duties as may be prescribed by Order in Council or rule of court.

Registrar of election court, appointment.

(2) Where the registrar is unable to attend, the judges assigned to hold the court may appoint a registrar thereof, and he shall be entitled to such fees as may be determined by the Lieutenant-Governor in Council.

Absence of registrar.

(3) The salary of the registrar shall be determined by Order in Council and shall be in lieu of all fees. R.S.O. 1937, c. 11, s. 35.

Salary.

36.—(1) The trial of a petition shall take place in the electoral district, the election or return for which is in question, unless it appears to the election court that it is desirable that the petition should be tried elsewhere, in which case the court may, with the consent of the parties, appoint such other place as appears most convenient.

Place of trial.

Adjourn-
ment.

(2) The election court may adjourn the trial from time to time, and from any one place to any other place within the electoral district, as may seem expedient.

Adjourn-
ment to
Toronto.

(3) Nothing in this section shall prevent the election court from directing that the trial be adjourned to, be continued or closed in Toronto. R.S.O. 1937, c. 11, s. 36.

Notice of
trial.

37. Notice of the time and place at which the petition will be tried shall be given in the prescribed manner, not less than 14 days before the day on which the trial is to take place. R.S.O. 1937, c. 11, s. 37.

Reception
and
attendance
on the
judge.

38. The judges shall be received and attended at the place where they are to try a petition, in the same manner, so far as circumstances will admit, as a judge is received and attended at a sittings of the High Court in a county town for the trial of actions. R.S.O. 1937, c. 11, s. 38.

Powers of
the election
court.

39. Subject to this Act, the judges constituting an election court shall have the same powers, jurisdiction and authority as judges of the Supreme Court, and the election court shall be a court of record. R.S.O. 1937, c. 11, s. 39.

Certain
circum-
stances not
to stop trial.

40. The trial or an appeal from a judgment of the election court may be proceeded with, notwithstanding the acceptance by the respondent of an office of profit under the Crown, or his resignation of the seat, or the prorogation or dissolution of the Assembly. R.S.O. 1937, c. 11, s. 40.

Application
to change
petitioner
when delay
in fixing
day of trial.

41.—(1) Where 45 days have elapsed after the presentation of the petition without the day for trial having been fixed, any voter may, within 55 days after the presentation of the petition, apply to the court or a judge to be substituted for the petitioner or petitioners on such terms as may be just, and to have the date of trial fixed.

Dismissal
of petition.

(2) Unless the application is made within such time, the petition shall be dismissed, and all further proceedings thereunder shall be terminated upon such terms as the court or judge may direct. R.S.O. 1937, c. 11, s. 41.

Time for
commence-
ment of trial.

42.—(1) Subject to section 43, the trial shall be commenced within six months from the time when the petition was presented, and shall be continued from day to day until its conclusion, unless it appears to the election court that the requirements of justice render it necessary that the trial should be adjourned.

(2) The election court may upon application of either party, after the day of trial has been fixed and before it has been commenced, postpone the trial on such terms as may be just. R.S.O. 1937, c. 11, s. 42.

43. If the member-elect is entitled to take his seat, the trial shall not, without his consent, be held during, or within, 15 days after the close of a session of the Assembly; and in the computation of any time or delay allowed for any step or proceeding in respect of the trial, or for the commencement of the trial, the time occupied by the session shall not be reckoned. R.S.O. 1937, c. 11, s. 43.

EVIDENCE

44. Unless the election court otherwise directs, evidence in support of a charge of a corrupt practice may be received before proof has been given of the agency of the person alleged to have committed the corrupt practice. R.S.O. 1937, c. 11, s. 44.

45. On the trial of a petition complaining of an undue return and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue, in the same manner as if the respondent had presented a petition under section 13. R.S.O. 1937, c. 11, s. 45.

WITNESSES

46. Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances will admit, as on the trial of an action. R.S.O. 1937, c. 11, s. 46.

47.—(1) The election court may, by order, compel the attendance as a witness at the trial of any person who appears to have been concerned in the election to which the petition relates, and any person refusing to obey such order shall be guilty of contempt of court.

(2) The election court may examine any witness so compelled to attend or any person in court, although he is not called and examined by a party to the petition.

(3) After a witness has been examined, he may be cross-examined by or on behalf of the petitioner and respondent, or either of them.

Prisoners as witnesses.

(4) When a witness is a prisoner, the jailer or other officer having him in custody shall take him before the election court if so ordered by that court or by a judge of the Court of Appeal. R.S.O. 1937, c. 11, s. 47.

Persons not excused from answering on ground of privilege.

48.—(1) A person who is called before an election court shall not be excused from answering any question relating to an offence at or connected with the election, on the ground that the answer may criminate or tend to criminate him, or to establish his liability to a civil proceeding at the instance of the Crown or of any person, or on the ground of privilege, but,

(a) a witness who answers truly all questions which he is required by the election court to answer shall be entitled to receive a certificate of indemnity under the hands of the members of the court, stating that the witness has so answered; and

(b) any such answer to a question put by or before an election court shall not be admissible in evidence against him in any proceeding under any Act of the Legislature.

Stay of proceeding against witness who has received certificate.

(2) Where a witness has received a certificate and a legal proceeding is at any time instituted against him for an offence under or a contravention of *The Election Act* committed by him before the date of the certificate at or in relation to the election, the court having cognizance of the proceeding shall on the production of the certificate stay the proceeding, and may award to such person such costs as he may have been put to in the proceeding, but a witness who upon his own evidence is found by the election court to have been guilty of a corrupt practice, and who is reported therefor, shall be thereby subject to the penalties and disabilities mentioned in section 180 of *The Election Act*, unless such finding and report are reversed or set aside by the court. R.S.O. 1937, c. 11, s. 48.

Rev. Stat., c. 112.

Expenses of witnesses.

49. A person appearing to give evidence before an election court shall be entitled to the like fees and expenses as are allowed to witnesses on the trial of civil actions, and such fees and expenses, if the witness was called and examined by the election court, shall be deemed to be part of the expenses of providing a court, and in other cases shall be costs of the party calling the witness. R.S.O. 1937, c. 11, s. 49.

REPORTS AND CERTIFICATES

50. The election court shall determine whether the member whose return or election is complained of, or any and what other person was duly returned or elected, or whether the election was void, and shall also determine the matters in question on a petition, if any, presented under section 13, and, except in the case of an appeal as hereinafter provided, shall certify their determination to the Speaker and, upon the certificate being given, such determination shall be final. R.S.O. 1937, c. 11, s. 50.

Decision of
election
court.

51. Where a charge is made in a petition of a corrupt practice having been committed, the election court shall, with the certificate, and at the same time, report,

Report of
judges where
charge is
made of
corrupt
practices.

- (a) whether any corrupt practice has been proved to have been committed by or with the actual knowledge and consent of any and of which candidate and the nature of such corrupt practice;
- (b) the name of any person who has been proved to have been guilty of a corrupt practice;
- (c) the name of any person who upon his own evidence has been found guilty of a corrupt practice;
- (d) whether corrupt practices have, or whether there is reason to believe that corrupt practices have extensively prevailed at the election;
- (e) whether they are of opinion that the inquiry into the circumstances of the election has been rendered incomplete by the action of any of the parties to the petition, and that further inquiry as to whether corrupt practices have extensively prevailed is desirable. R.S.O. 1937, c. 11, s. 51.

52. The election court may also report specially as to any matter arising in the course of the trial, an account of which ought to be submitted to the Assembly. R.S.O. 1937, c. 11, s. 52.

Special
report.

53.—(1) Where an appeal is had from their judgment on the trial of a petition, the election court shall make the certificates and report to the Court of Appeal, and the same shall form part of the record upon the appeal.

Certificate
for Court of
Appeal.

Certificate
not to be
issued during
time for
appealing.

(2) The election court shall not certify their determination until after the security for costs of appeal has been deposited, or until the time limited for depositing the security has expired. R.S.O. 1937, c. 11, s. 53.

Concurrence
of judges.

54.—(1) Every certificate and every report shall be under the hands of both of the judges constituting the election court.

Where
difference
of opinion.

(2) If the judges differ as to whether a member whose return or election is complained of was duly returned or elected, they shall certify that difference, and subject to appeal he shall be deemed to be duly returned or elected.

Agreement
as to undue
return or
election.

(3) If the judges determine that a member was not duly returned or elected, but differ as to other matters arising upon the trial, they shall certify that difference, and, subject to appeal, the election shall be void.

Other
matters.

(4) If the judges differ as to any matter which might be the subject of a report, they shall certify that difference and make no report on that matter. R.S.O. 1937, c. 11, s. 54.

Speaker to
communicate
report to the
Assembly.

55. The Speaker shall, as soon as practicable after he receives a certificate or a certificate and report, communicate the same to the Assembly, and the same shall forthwith thereafter be entered on the Journals, and the Assembly may give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution as the circumstances may require. R.S.O. 1937, c. 11, s. 55.

If election
set aside
and appeal
entered.

56.—(1) If the election court determines that a member was not duly returned or elected notwithstanding that an appeal from the decision is pending, he shall not be entitled to sit or vote in the Assembly until the appeal is disposed of, and the certificate of the court received by the Speaker, but where the election court determines that some other person was elected or is entitled to the seat, such person shall, notwithstanding that an appeal is pending, be entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the certificate of the court received by the Speaker.

Notice to
Speaker.

(2) In the cases to which subsection 1 applies, where an appeal is entered the registrar shall forthwith notify the Speaker of the determination of the election court and that an appeal therefrom is pending. R.S.O. 1937, c. 11, s. 56.

57. A writ for a new election shall not be issued until after the expiration of eight days from the determination of the election court that the return or election is void and, if an appeal is in the meantime brought, the writ shall not issue, pending the appeal. R.S.O. 1937, c. 11, s. 57.

Time for
issue of writ
for new
election.

SPECIAL CASE

58.—(1) Where it appears to the court or to the election court that the case raised by the petition can be conveniently stated as a special case, either court, upon the application of a party or upon the consent of all parties, may direct the same to be stated accordingly; and such special case shall be heard before the Court of Appeal whose decision shall be final, and the registrar shall certify to the Speaker the judgment upon such special case and the petition.

Special
case,
hearing of.

(2) If it appears to the election court before or during the trial of a petition that there is a question of law which it would be convenient to have decided by the court before the trial of the petition is concluded, the election court may make an order accordingly, and may direct the mode in which the question shall be raised, and may in the meantime, if it appears necessary, adjourn the trial of the petition until the question has been decided, and shall thereafter deal with the petition upon the trial in accordance with the decision. R.S.O. 1937, c. 11, s. 58.

Decision
as to
question
of law.

APPEALS

59.—(1) Subject to section 182 of *The Election Act* where the judges constituting the election court disagree, they shall certify the disagreement as provided by section 54, and either party may thereupon bring the matter before the court, and the court shall, in disposing thereof, have the same jurisdiction in all respects as on an appeal from a decision of the election court and may determine all questions of law and fact which the election court might or should have determined, and the registrar shall certify the judgment of the court to the Speaker.

Disagree-
ment be-
tween the
trial judges.
Rev. Stat.,
c. 112.

(2) Instead of determining all such questions the court may refer the case back to the election court, with such declarations and directions as the court may think fit, and the election court shall thereupon dispose of the case in accordance with such declarations and directions, and shall certify as the case may require. R.S.O. 1937, c. 11, s. 59.

Reference
back.

60.—(1) Subject to section 69, a party to a petition who is dissatisfied with the judgment of the election court may appeal therefrom to the Court of Appeal.

Appeal.

Security
for costs.

(2) The party appealing shall within eight days from the day on which the judgment was given deposit with the registrar \$100 as security for costs.

Setting
down for
hearing.

(3) The registrar shall thereupon set the appeal down to be heard on a day to be appointed by the court, or a judge thereof.

Precedence.

(4) The appeal shall be given precedence over all ordinary business, but the court may for sufficient cause postpone the hearing.

Notice of
setting
down.

(5) The party appealing shall within three days after the security for costs has been given, or within such further time as the court or a judge may allow, give to the other parties affected by the appeal, notice in writing that the appeal has been set down to be heard and by the same notice the party appealing may limit the appeal to any specific question. R.S.O. 1937, c. 11, s. 60.

Hearing.

61. The appeal shall thereupon be heard and determined by the court, and such judgment shall be pronounced, as in the opinion of the court should have been given by the election court. R.S.O. 1937, c. 11, s. 61.

Court to re-
view decision
upon facts as
well as law.

62. The court shall review the judgment upon questions of fact as well as of law, and shall draw such inference from the facts or evidence as the election court should have drawn. R.S.O. 1937, c. 11, s. 62.

Powers of
court as to
amendments
and evidence.

63. The court shall have all the powers and duties as to amendment and otherwise of the election court, and may require any witness to be re-examined, and may receive further evidence, either by oral examination in court, or by affidavit or by deposition taken before any judge or other person whom the court may name. R.S.O. 1937, c. 11, s. 63.

Judges may
report upon
demeanour
of witnesses.

64. Where the judgment of the election court depends in whole or in part upon the credit given to particular witnesses, and the judgment is appealed against, the election court may make a written report as to the demeanour of the witnesses and their mode of giving their evidence, and of the reasons for giving credit to the particular witnesses. R.S.O. 1937, c. 11, s. 64.

Return of
deposit.

65. The court may make such order as to the disposition of the deposit as may seem just. R.S.O. 1937, c. 11, s. 65.

Registrar to
certify judg-
ment to the
Speaker.

66. The registrar shall certify to the Speaker the judgment of the court in the same manner as the election court but for the appeal would have done; and shall certify as to

the matters and things as to which the election court would but for such appeal have been required to report. R.S.O. 1937, c. 11, s. 66.

67. Instead of so certifying, the court, upon such terms New trial. as to costs and otherwise as may seem just, may grant a new trial for the purpose of taking evidence, or additional evidence, and may remit the case to the election court, or to some other election court; and, subject to any directions of the court, the case shall be thereafter proceeded with as if there had been no appeal. R.S.O. 1937, c. 11, s. 67.

68. The judgment of the court on any matter or question Decision of Courts of Appeal to be final. under this Act or *The Election Act* shall be final, and shall not be subject to appeal. R.S.O. 1937, c. 11, s. 68.

69. There shall be no appeal from a decision of the election court that a candidate or other person has not been No appeal in certain cases. guilty of corrupt practices, or from a finding in favour of a candidate of any of the matters of defence mentioned in section 178 or 180 of *The Election Act*. R.S.O. 1937, c. 11, Rev. Stat., c. 112. s. 69.

WITHDRAWAL AND ABATEMENT

70.—(1) A petition shall not be withdrawn without the Withdrawal of petitions. leave of the court or a judge upon special application, to be made in the prescribed manner and at the prescribed time and place.

(2) The application shall not be made until the prescribed Notice of withdrawal. notice thereof has been given in the electoral district.

(3) Where there are more petitioners than one, the appli- All petitioners must join in withdrawal. cation to withdraw a petition shall not be made, except with the consent of all the petitioners.

(4) Subject to section 41, on the hearing of the application, Substitution of new petitioner. any person who might have been a petitioner, may apply to be substituted as the petitioner.

(5) The court or judge may substitute the applicant as Order as to security where withdrawal is induced by corrupt bargain. the sole petitioner, and, if the proposed withdrawal appears to be induced by any corrupt bargain or consideration, may direct that the security given shall remain as security for any costs that the substituted petitioner may be ordered to pay, and that to the extent of the security the original petitioner or petitioners shall be liable to pay such costs.

Security to
be given by
substituted
petitioner.

(6) If the court or judge makes no order with respect to the security given, security to the same amount as would be required in the case of a petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with the petition. and within four days after the order of substitution.

Liabilities of
substituted
petitioner.

(7) Subject as aforesaid, a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities as the original petitioner.

Costs.

(8) If a petition is withdrawn, the petitioner shall pay the costs of the respondent, unless the court or a judge otherwise orders. R.S.O. 1937, c. 11, s. 70.

Where
court to
report.

71. If it appears that the withdrawal of the petition was the result of any corrupt arrangement, or in consideration of the withdrawal of any other petition, the court or judge shall report to the Speaker the circumstances attending the withdrawal. R.S.O. 1937, c. 11, s. 71.

Abatement
of petition
by death.

72.—(1) A petition shall abate on the death of a sole petitioner, or of the survivor of several petitioners. R.S.O. 1937, c. 11, s. 72 (1); 1938, c. 37, s. 6 (1).

Costs.

(2) The abatement of a petition shall not affect any liability for costs previously incurred.

Notice of
abatement
to be given.

(3) On the abatement of a petition the prescribed notice of the abatement shall be given in the electoral district, and any person who might have been a petitioner may apply to the court or a judge thereof in the prescribed manner and at the prescribed time and place to be substituted as the sole petitioner.

Substitution
of new
petitioner on
abatement.

(4) The court or judge may substitute the applicant as the petitioner upon his giving security to the same amount as is required in the case of a petition. R.S.O. 1937, c. 11, s. 72 (2-4).

Substitution
of new
petitioner
where peti-
tioner not
qualified.

73. Where a petitioner is not qualified to be a petitioner, the petition shall not, on that account, be dismissed, if within such time as the court or a judge allows for that purpose another petitioner is substituted, and the substitution shall be made on such terms and conditions as to the court or judge may seem meet. R.S.O. 1937, c. 11, s. 73.

Notice
required if
respondent
dies or seat
becomes
vacant.

74.—(1) If, before or during the trial of a petition,

(a) the respondent dies; or

- (b) the Assembly resolves that the seat is vacant; or
- (c) the respondent gives notice to the court or to the election court in the prescribed manner and at the prescribed time, that he does not intend to oppose, or further to oppose the petition,

notice of such event shall be given in the prescribed manner in the electoral district.

(2) Within the prescribed time after the notice is given, any person who might have been a petitioner, may apply to the court or a judge to be admitted as a respondent to oppose the petition, or so much thereof as may remain undisposed of, and may be admitted accordingly, either with the respondent, if there be a respondent, or in place of the respondent; and any number of persons, not exceeding three, may be so admitted.

(3) If any of the events mentioned in subsection 1 happen during the trial, the election court shall adjourn the trial in order that notice may be given as hereinbefore provided.

(4) A respondent who has given the prescribed notice shall not be allowed to appear or act as a party against the petition in any proceeding thereon, and shall not sit or vote in the Assembly until the Assembly has been informed of the report on the petition, and the court shall report the giving of the notice to the Speaker. R.S.O. 1937, c. 11, s. 74.

TRIAL FOR CORRUPT PRACTICES

75.—(1) Any two of the judges of the Supreme Court shall be and constitute a court, hereinafter called the summary trial court, for the trial of corrupt practices and of offences punishable under section 197 of *The Election Act* committed at or in connection with an election.

(2) For the purposes of this section the election court trying a petition shall be also a summary trial court.

(3) If it is made to appear to a judge of the Supreme Court or to an election court by affidavit or by the evidence taken on the trial of the petition or otherwise that any person is charged with or has committed any such corrupt practice or offence, the judge or the election court, as the case may be, may order the person to appear before a summary trial court to answer the charge stated in the order at the time and place named therein. R.S.O. 1937, c. 11, s. 75 (1-3).

Service of
order.

(4) The order may be served by delivering a copy thereof to the person charged or in such other manner as the judge or the election court or the summary trial court may direct. R.S.O. 1937, c. 11, s. 75 (4); 1938, c. 37, s. 6 (2).

Issue of
warrant on
non-
attendance.

(5) If the person charged does not attend at the time and place named in the order, the summary trial court may issue a warrant to compel his attendance.

Disposal of
case by
court.

(6) At the time and place named in the order, and upon proof of the service thereof, whether the person charged appears or not, the summary trial court shall hear and determine the charge in a summary manner, and shall have the same powers, jurisdiction and authority for the investigation as an election court at the trial of a petition alleging corrupt practices, and may adjourn the hearing and the rendering of a decision from time to time and from place to place as may be deemed proper.

Rights of
person
charged.

(7) The person charged shall be entitled to be represented by counsel and to make his full answer and defence and to call and examine and to cross-examine witnesses in the same manner and to the same extent as a party to a petition.

Order for
payment of
money
penalty and
imprison-
ment, if any.

(8) If it is found that the person charged has been guilty of any corrupt practice or offence mentioned in the order, the court shall adjudge the same accordingly, and shall order that the person charged shall suffer the imprisonment or shall pay the amount of the money penalty and in default suffer the imprisonment, authorized or provided by law for the corrupt practice or offence of which he has been found guilty, and if the imprisonment is imposed may direct in what jail or other place of confinement the person found guilty shall be imprisoned, and if no place is named the imprisonment shall be in the common jail of the county in which the sentence is pronounced.

Costs.

(9) The court shall have power by the same or a subsequent order to direct by whom the costs of the person prosecuting the charge or of the person charged or any part thereof shall be paid, and where costs are payable by a person found guilty payment may be enforced in the same manner as the payment of a money penalty.

Imprison-
ment in
default of
payment of
money
penalty.

(10) Where a money penalty is imposed, the court shall direct that in default of the amount being paid forthwith or within a time not exceeding one month, to be limited by the court, the person found guilty shall be imprisoned for a term not exceeding one year in any jail or other place

of imprisonment to be named by the court, unless the amount of the penalty is sooner paid, and in default of any place being named the imprisonment shall be in the common jail of the county in which the sentence is pronounced.

(11) Where a money penalty is imposed in addition to imprisonment, the term of imprisonment in default of payment shall begin at the expiration of the first-mentioned imprisonment. Commencement of term of imprisonment.

(12) For the infliction of the imprisonment imposed, whether in the first instance or in default of payment of a penalty or of costs, the court shall have the like authority as the Supreme Court to give effect to the judgment of the court, and the sheriff and jailer shall obey all orders of the court made in that behalf. Power of court as to imprisonment.

(13) The judgment shall be a bar to any other proceeding against the same person for the offence of which he has been found guilty. Judgment a bar.

(14) If, upon the trial of a petition or upon the trial of any person under this section, it appears to the court that a person then present in court has committed any such corrupt practice or offence, the court may then and there state to him the corrupt practice or offence with which he is charged, and may appoint a time and place for his trial, and it shall not be necessary to serve any further order for his attendance and the same proceedings may be had as if an order had been made and served under subsections 3 and 4. Notice to person charged when present in court.

(15) The election court may direct any counsel or solicitor present at the trial of a petition or the Crown attorney of the county in which the trial takes place to institute and carry on proceedings under this section against any person who from the evidence given at the trial appears to have committed such corrupt practice or offence. Direction of prosecution.

(16) A Crown attorney or a counsel or solicitor who is directed to institute and carry on proceedings shall be entitled to costs and fees according to the Supreme Court scale or to such scale as may be fixed by the Lieutenant-Governor in Council, and if such costs and fees are not recovered from the person charged they shall be paid in the case of a county in the first instance by the county and the county shall be reimbursed out of the Consolidated Revenue Fund, and in the case of a district they shall be paid out of the Consolidated Revenue Fund. R.S.O. 1937, c. 11, s. 75 (5-16). Fees of counsel.

Witness
fees.

Rev. Stat.,
c. 83.

Order for
payment and
issue of
execution.

Application
of money
penalties.

Trial for
corrupt
practices to
follow trial
of petition.

Limitation
of time for
commence-
ment of
prosecution.

(17) Witnesses shall be entitled to receive fees and allowances for attending at the proceedings payable on the scale and in the manner provided by *The Crown Witnesses Act*. R.S.O. 1937, c. 11, s. 75 (17); 1938, c. 37, s. 6 (3).

(18) The court may upon the application of the person prosecuting the charge make an order for payment forthwith of the penalty imposed and costs without directing imprisonment in default of payment, and that execution may be issued out of such office of the Supreme Court as the court may direct, and that any other proceedings may be taken for the recovery of the penalty imposed and costs which might be taken upon a judgment of the Supreme Court.

(19) If a money penalty is recovered at the instance of a private prosecutor under this section one half shall belong to him and the other half to the Crown.

(20) Where practicable the election court trying a petition shall, during such trial, or immediately thereafter, proceed with the trial of persons who appear to have committed or who are charged with having committed any such corrupt practices or offences.

(21) Every such proceeding shall be commenced within the space of one year next after the corrupt practice or offence complained of was committed and not afterwards. R.S.O. 1937, c. 11, s. 75 (18-21).

COSTS

Costs to be
in discretion
of court.

When
petition filed
before
notice of
disclaimer.

76. Except as otherwise herein provided, the costs, charges and expenses of and incidental to or consequent upon or arising out of a petition shall be in the discretion of the court or judge before whom the proceeding is pending who shall have full power to determine by whom, in what manner and to what extent the same shall be paid. R.S.O. 1937, c. 11, s. 76.

77. If a petition is filed before the petitioner has notice of the filing of a disclaimer and is dismissed in consequence of the disclaimer, the respondent shall pay all costs of the petitioner up to the time the petitioner receives notice of the disclaimer and the costs of the application to dismiss. R.S.O. 1937, c. 11, s. 77.

[For provisions as to candidates disclaiming, see *The Legislative Assembly Act*, Rev. Stat. c. 202, section 17 (1, 5).]

78.—(1) If on the trial of a petition it is adjudged that a corrupt practice has been committed by an agent but without the actual knowledge and consent of the candidate and costs are awarded against the candidate, the election court on the application of any party to the petition may order the agent to be summoned to appear before an election court at a time fixed in the order to show cause why he should not be ordered to pay such costs or so much thereof as may seem just and to indemnify the candidate against the payment thereof.

When agent may be ordered to pay costs.

(2) If at the time so fixed the agent does not appear, he may be ordered, upon the evidence given at the trial of the petition and upon such further evidence, if any, as may be adduced, to pay the whole or such part of the costs awarded against the candidate as may seem just, and to indemnify the candidate against the payment thereof, and if the agent appears, such order may be made as may seem just after hearing the parties and such evidence as may be adduced.

If agent does not appear.

(3) The party to whom costs are awarded shall be entitled to issue execution for the amount ordered to be paid by the agent against the agent as well as against the candidate.

Execution for costs.

(4) If the costs awarded against the agent are paid by the candidate, he shall be entitled to be repaid the same by the agent, and may upon the order of the court or a judge issue execution against the agent therefor. R.S.O. 1937, c. 11, s. 78.

Repayment of costs by agent to candidate.

79.—(1) The total amount to be allowed for counsel fees in respect to the trial upon taxation as between party and party shall not exceed \$50 for the first day upon which the trial is held, and \$40 for each subsequent day during which it is continued.

Taxation and recovery of costs.

(2) No greater sum than \$300 in addition to counsel fees shall be taxable against either party as costs in the cause in addition to witness fees and other actual and necessary disbursements taxable as between party and party in an action in the Supreme Court.

Counsel fees.

(3) This section shall not apply to costs taxable against a candidate who has incurred the penalties and disabilities provided by *The Election Act* for corrupt practices committed by him or with his actual knowledge and consent. R.S.O. 1937, c. 11, s. 79.

No limitation in certain cases. Rev. Stat., c. 112.

80.—(1) A party to whom costs are awarded against the petitioner may, within 30 days from the date of the judgment or order awarding the same or within such other time as the

Recovery of costs against petitioner.

court or judge may allow, file the certificate of taxation with the registrar and at the expiration of the period shall be entitled to receive out of the deposit the amount taxed to him.

Where costs exceed deposit.

(2) If the total amount of the certificates so filed exceeds the deposit each of the parties filing the same shall be entitled to receive his proportion thereof, and may forthwith issue execution for the residue. R.S.O. 1937, c. 11, s. 80.

Costs not to be awarded against candidate who is not unseated.

81. The costs of a petition shall not be awarded against a candidate where he is not, by the judgment of the court, unseated; but this section shall not apply to cross petitions. R.S.O. 1937, c. 11, s. 81.

Provisions as to costs not specially provided for.

82. No costs beyond those taxable between party and party shall, in the absence of a special contract, be taxable between solicitor and client. R.S.O. 1937, c. 11, s. 82.

MISCELLANEOUS

Writ, etc., need not be produced at trial.

83. Unless the election court otherwise directs, it shall not be necessary on the trial of a petition or of any proceeding under this Act to prove the writ of election or the return thereof. R.S.O. 1937, c. 11, s. 83.

Power to punish for contempt and enforce rules.

84. The court and any judge of the Supreme Court, for the purpose of enforcing obedience to any judgment or order, or for punishing contempt, shall have power to grant a writ of attachment. R.S.O. 1937, c. 11, s. 84.

Expenses of court, how payable.

85.—(1) The travelling and other expenses of the judges and the expenses incurred by the sheriff in attending them and in providing the court and accessories, and the fees and travelling and other expenses of the registrar shall be audited and paid in the same manner as the fees and expenses allowed to other officers under *The Election Act*.

Rev. Stat., c. 112.

When payable by parties.

(2) The fees and expenses of the sheriff and other officers for publishing any notice or for the service of process or other papers at the instance of any party to the petition shall be costs in the cause and shall be borne and paid in the first instance by the party on whose behalf such services are rendered. R.S.O. 1937, c. 11, s. 85.

Prosecution of persons reported for corrupt practices.

86. Where an election court reports that any person has been guilty of a corrupt practice, it shall be the duty of the Crown attorney to prosecute such person unless the election court otherwise directs. R.S.O. 1937, c. 11, s. 86.

Election not to be questioned except under Act.

87. No election or return shall be questioned except in accordance with this Act. R.S.O. 1937, c. 11, s. 87.

CHAPTER 68

The Conveyancing and Law of Property Act**1. In this Act,**Interpre-
tation.

- (a) "conveyance" includes assignment, appointment, lease, settlement, and other assurance, made by deed, on a sale, mortgage, demise, or settlement of any property or on any other dealing with or for any property, and "convey" has a meaning corresponding with that of conveyance;
- (b) "land" includes messuages, tenements, hereditaments, whether corporeal or incorporeal, and any undivided share in land;
- (c) "mortgage" includes any charge on property for securing money or money's worth;
- (d) "mortgage money" means money or money's worth secured by a mortgage;
- (e) "mortgagee" includes any person from time to time deriving title under the original mortgagee;
- (f) "mortgagor" includes any person from time to time deriving title under the original mortgagor or entitled to redeem a mortgage according to his estate, interest or right in the mortgaged property;
- (g) "property" includes real and personal property, and any debt, and any thing in action, and any other right or interest;
- (h) "puffer" means a person appointed to bid on the part of the seller;
- (i) "purchaser" includes a lessee, a mortgagee and an intending purchaser, lessee or mortgagee, or other person, who, for valuable consideration, takes or deals for any property, and "purchase" has a meaning corresponding with that of purchaser; but "sale" means only a sale properly so called. R.S.O. 1937, c. 152, s. 1.

Conveyance
of corporeal
tenements.

2. All corporeal tenements and hereditaments shall, as regards the conveyance of the immediate freehold thereof, lie in grant as well as in livery. R.S.O. 1937, c. 152, s. 2.

Form and
operation of
feoffments.

3. A feoffment, otherwise than by deed, shall be void and no feoffment shall have any tortious operation. R.S.O. 1937, c. 152, s. 3.

Words of
limitation.

4.—(1) In a conveyance it shall not be necessary, in the limitation of an estate in fee simple, to use the words heirs; or in the limitation of an estate in tail to use the words heirs of the body; or in the limitation of an estate in tail male or in tail female to use the words heirs male of the body or heirs female of the body.

Idem.

(2) For the purpose of such limitation it shall be sufficient in a conveyance to use the words in fee simple, in tail, in tail male, or in tail female, according to the limitation intended, or to use any other words sufficiently indicating the limitation intended.

Effect of
conveyance
without
words of
limitation.

(3) Where no words of limitation are used, the conveyance shall pass all the estate, right, title, interest, claim and demand which the conveying parties have in, to, or on the property conveyed, or expressed or intended so to be, or which they have power to convey in, to, or on the same.

Saving.

(4) Subsection 3 shall apply only if and as far as a contrary intention does not appear from the conveyance, and shall have effect subject to the terms of the conveyance and to the provisions therein contained.

Operation
of section.

(5) This section shall apply only to conveyances made after the 1st day of July, 1886. R.S.O. 1937, c. 152, s. 4.

Receipts.

5. A receipt for consideration money or securities in the body of a conveyance shall be a sufficient discharge to the person paying or delivering the same without any further receipt being endorsed on the conveyance. R.S.O. 1937, c. 152, s. 5.

Receipt as
evidence for
subsequent
purchaser.

6. A receipt for consideration money or other consideration in the body of a conveyance or endorsed thereon shall, in favour of a subsequent purchaser, not having notice that the money or other consideration thereby acknowledged to be received was not in fact paid or given, wholly or in part, be sufficient evidence of the payment or giving of the whole amount thereof. R.S.O. 1937, c. 152, s. 6.

7. On a sale the purchaser shall not be entitled to require that the conveyance to him be executed in his presence, or that of his solicitor, but shall be entitled to have, at his own cost, the execution of the conveyance attested by some person appointed by him, who may, if he thinks fit, be his solicitor. R.S.O. 1937, c. 152, s. 7.

8. A partition and an exchange of land and an assignment of a chattel interest in land, and a surrender in writing of land not being an interest which might by law have been created without writing, shall be void at law, unless made by deed. R.S.O. 1937, c. 152, s. 8.

9. A contingent, an executory, and a future interest, and a possibility coupled with an interest in land, whether the object of the gift or limitation of such interest or possibility is or is not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent, into or upon land, may be disposed of by deed; but no such disposition shall, by force only of this Act, defeat or enlarge an estate tail. R.S.O. 1937, c. 152, s. 9.

10. An exchange or a partition of any tenements or hereditaments shall not imply any condition in law, and the word "give" or the word "grant" in a conveyance shall not imply any covenant in law, except so far as the word "give" or the word "grant" may, by force of any Act in force in Ontario, imply a covenant. R.S.O. 1937, c. 152, s. 10.

11. Sections 8, 9 and 10 shall not extend to any deed, act or thing executed or done, or to any estate, right or interest created before the 1st day of January, 1850. R.S.O. 1937, c. 152, s. 11.

12.—(1) Where by any letters patent, assurance or will, made and executed after the 1st day of July, 1834, land has been or is granted, conveyed or devised to two or more persons other than executors or trustees in fee simple, or for any less estate, it shall be considered that such persons took or take as tenants in common, and not as joint tenants, unless an intention sufficiently appears on the face of such letters patent, assurance or will, that they are to take as joint tenants.

(2) This section shall apply notwithstanding that one of such persons is the wife of another of them. R.S.O. 1937, c. 152, s. 12.

13. Where hereafter two or more persons acquire land by length of possession they shall be considered to hold as tenants in common and not as joint tenants. R.S.O. 1937, c. 152, s. 13.

What to be included in conveyance.

14.—(1) Every conveyance of land, unless an exception is specially made therein, shall include all houses, out-houses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, water-courses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever, to such land belonging or in any-wise appertaining, or with the same demised, held, used, occupied and enjoyed or taken or known as part or parcel thereof, and if the same purports to convey an estate in fee simple, also the reversion or reversions, remainder and remainders, yearly and other rents, issues and profits of the same land and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever, of the grantor, into, out of, or upon the same land, and every part and parcel thereof, with their and every of their appurtenances.

Application of section.

(2) Except as to conveyances under former Acts relating to short forms of conveyances, this section shall apply only to conveyances made after the 1st day of July, 1886. R.S.O. 1937, c. 152, s. 14.

Meaning of "mining rights".

15. Unless the contrary appears to be the intent of the instrument, where in a conveyance the "mining rights" in respect of any land are granted or reserved, such grant or reservation shall be construed to convey or reserve the ores, mines and minerals on or under the land, together with such right of access for the purpose of winning the ores, mines and minerals as is incidental to a grant of ores, mines and minerals. R.S.O. 1937, c. 152, s. 15.

Meaning of "surface rights".

16. Unless the contrary appears to be the intent of the instrument, where in a conveyance the "surface rights" in respect of any land are granted or reserved, such grant or reservation shall be construed to convey or reserve the land therein described with the exception of the ores, mines and minerals on or under the land and such right of access for the purpose of winning the ores, mines and minerals as is incidental to a grant of ores, mines and minerals. R.S.O. 1937, c. 152, s. 16.

Application.

17. In any instrument purporting to deal with "mining rights" or "surface rights" these expressions shall respectively have the meaning affixed to them by sections 15 and 16. R.S.O. 1937, c. 152, s. 17.

Operation of ss. 15 to 17.

18. Sections 15, 16 and 17 shall have effect only as to conveyances or instruments executed on or after the 1st

day of July, 1914, and shall not apply to conveyances by the Crown. R.S.O. 1937, c. 152, s. 18.

19. Any corporation capable of taking and conveying land in Ontario shall be deemed to have been and to be capable of taking and conveying land by deed of bargain and sale, in like manner as any person in his natural capacity, subject to any general limitations or restrictions and to any special provisions as to holding or conveying land which may be applicable to such corporation. R.S.O. 1937, c. 152, s. 19.

How corporations may convey.

20.—(1) Where land subject to an encumbrance, whether immediately payable or not, is sold by any court or out of court, the court in which the sale takes place or the Supreme Court may, on the application of any party to the sale, direct or allow payment into court, in the case of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land, of such amount as, having regard to the interest which it will earn, the court considers will be sufficient by means of the income thereof to keep down or otherwise provide for that charge, and in any other case of capital money charged on the land, of an amount sufficient to meet the encumbrance and any interest due thereon; but in either case there shall also be paid into court such additional amount as the court considers will be sufficient to meet the contingency of further costs, expenses, and interest, and any other contingency, not exceeding one-tenth of the original amount to be paid in, unless the court for special reasons thinks fit to require a larger additional amount.

Provision for sales free from encumbrances.

(2) The court may thereupon, either after or without notice to the encumbrancer, declare the land to be freed from the encumbrance, and may make any order for conveyance, or vesting order, proper for giving effect to the sale.

Conveyance or vesting order.

(3) After notice served on the persons interested in or entitled to the money or fund in court, the court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

Directions.

(4) Payment of money into court shall effectually exonerate therefrom the person making the payment and shall free the land from the charge or encumbrance. R.S.O. 1937, c. 152, s. 20.

Effect of payment into court.

21. Every covenant made after the 24th day of March, 1950, which but for this section would be annexed to and run with land and which restricts the sale, ownership, occupation or use of land because of the race, creed, colour, nationality,

Covenants to restrict use of land because of race or creed.

ancestry or place of origin of any person shall be void and of no effect. 1950, c. 11, s. 1.

Covenants to be implied.

22.—(1) In a conveyance made on or after the 1st day of July, 1886, there shall, in the cases in this section mentioned, be deemed to be included, and there shall in those cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common:

On conveyance for value by beneficial owner.

(a) In a conveyance for valuable consideration, other than a mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner, namely, covenants for,

(i) right to convey,

(ii) quiet enjoyment,

(iii) freedom from encumbrances, and

(iv) further assurance,

Rev. Stat., c. 360.

according to the forms of covenants for such purposes set forth in Schedule B to *The Short Forms of Conveyances Act*, and therein numbered 2, 3, 4 and 5, subject to that Act.

On conveyance of leaseholds for value by beneficial owner.

(b) In a conveyance of leasehold land for valuable consideration, other than a mortgage, the following further covenant, by the person who conveys and is expressed to convey as beneficial owner:

Validity of lease.

That, notwithstanding anything by the person who so conveys, made, done, executed, or omitted, or knowingly suffered, the lease or grant creating the term or estate for which the land is conveyed is, at the time of conveyance, a good, valid, and effectual lease or grant of the property conveyed, and is in full force, unforfeited, unsurrendered, and in nowise become void or voidable, and that, notwithstanding anything as aforesaid, all the rents reserved by and all the covenants, conditions and agreements contained

in the lease or grant, and on the part of the lessee or grantee, and the persons deriving title under him to be paid, observed and performed, have been paid, observed and performed, up to the time of conveyance.

- (c) In a conveyance the following covenant by every person who conveys, and is expressed to convey, as trustee or mortgagee, or as personal representative of a deceased person, or as committee of a mentally incompetent person, or under an order of the court, which covenant shall be deemed to extend to every such person's own acts only, namely:

On conveyance by trustee, etc.

That the person so conveying has not executed, or done, or knowingly suffered, or been party or privy to any deed, act, matter or thing, whereby or by means whereof the subject matter of the conveyance, or any part thereof is or may be impeached, charged, affected, or encumbered in title, estate or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying such subject-matter or any part thereof, in the manner in which it is expressed to be conveyed.

Against encumbrances.

- (d) In a conveyance by way of settlement the following covenant by a person who conveys and is expressed to convey as settlor, namely:

On settlement for further assurance, limited.

That the person so conveying, and every person deriving title under him by deed or act or operation of law in his lifetime subsequent to that conveyance, or by testamentary disposition or devolution in law, on his death will, from time to time, and at all times, after the date of that conveyance, at the request and cost of any person deriving title thereunder, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the persons to whom the conveyance is made, and those deriving title under them, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by them or any of them shall be reasonably required.

- (2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, the person giving the direction, whether or

On conveyance by direction of beneficial owner.

not he conveys and is expressed to convey, as beneficial owner, shall be deemed to convey, and to be expressed to convey as beneficial owner the subject-matter so conveyed by his direction, and the covenants on his part mentioned in clause *a* of subsection 1 shall be implied accordingly.

Enforcing
covenants.

(3) The benefit of a covenant so implied shall be annexed and incident to and shall go with the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is for the whole or any part thereof from time to time vested.

Variation of
covenants.

(4) A covenant so implied may be varied or extended and as so varied or extended shall, as far as may be, operate in the like manner, and with all the like incidents, effects and consequences, as if such variations or extensions were directed in this section to be implied. R.S.O. 1937, c. 152, s. 21.

Operation of
covenants,
inheritance.

23.—(1) A covenant relating to land of inheritance or to land held for the life of another shall be deemed to be made with the covenantee, his heirs and assigns, and shall have effect as if heirs and assigns were expressed.

Idem.

Not of
inheritance.

(2) A covenant relating to land not of inheritance or to land not held for the life of another shall be deemed to be made with the covenantee, his executors, administrators and assigns, and shall have effect as if executors, administrators and assigns were expressed. R.S.O. 1937, c. 152, s. 22.

Mode of
executing
powers.

24.—(1) A deed executed in the presence of, and attested by, two or more witnesses in the manner in which deeds are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing, not testamentary, notwithstanding that it is especially required that a deed or instrument in writing, made in exercise of such power, shall be executed or attested with some additional or other form of execution or attestation or solemnity.

Saving of
other re-
quirements.

(2) This section shall not operate to defeat any direction in the deed or instrument creating the power that the consent of any particular person is necessary to a valid execution, or that any act is performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the deed or instrument.

Power may
be observed.

(3) Nothing in this section shall prevent the donee of a power from executing it conformably to the power. R.S.O. 1937, c. 152, s. 23.

25.—(1) A person to whom a power, whether coupled with an interest or not, is given may by deed disclaim or release or contract not to exercise the power. Disclaimer of power by donee.

(2) A person disclaiming shall not afterwards be capable of exercising or joining in the exercise of the power, and on such disclaimer the power may be exercised by the other or others or the survivor or survivors of the others of the persons to whom the power is given unless the contrary is expressed in the instrument creating the power. R.S.O. 1937, c. 152, s. 24. Disclaimer of power.

26. Where, under a power of sale, a sale in good faith is made of an estate, with the timber thereon, or with any articles attached thereto, and the tenant for life, or any other party to the transaction, is by mistake allowed to receive for his own benefit a part of the purchase money or value of the timber or article, the Supreme Court, upon an action brought, or upon application made in a summary way, may declare, that upon payment by the purchaser, or the claimant under him, of the full value of the timber or article at the time of the sale, with such interest thereon as the court directs, and the settlement of the principal money and interest under the direction of the court, upon such person as in the opinion of the court are entitled thereto, the sale ought to be established, and upon payment and settlement being made accordingly, the court may declare the sale valid, and thereupon the legal estate shall vest and go in like manner as if the power had been duly executed, and the costs of the application, as between solicitor and client, shall be paid by the purchaser or the claimant under him. R.S.O. 1937, c. 152, s. 25. Validity of sale under power although mistaken payment to tenant for life.

27.—(1) No appointment made in exercise of any power or authority to appoint any property, real or personal, amongst several objects, shall be invalid or impeached on the ground that an unsubstantial, illusory or nominal share only is thereby appointed to, or left unappointed to devolve upon, any one or more of the objects of such power, or upon the ground that any object of such power has been altogether excluded; but every such appointment shall be valid and effectual, notwithstanding that any one or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory, or take no share thereof or nominal share of the property subject to such power. Illusory appointments.

(2) Nothing in this section shall prejudice or affect any provision in any deed, will, or other instrument creating any such power, which declares the amount of the share or shares from which no object of the power shall be excluded or that Saving of positive requirements in constituting instrument.

some one or more object or objects of the power shall not be excluded or give any validity, force or effect to any appointment, other than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to, or left unappointed, to devolve upon any object of such power. R.S.O. 1937, c. 152, s. 26.

Tenancy by
the curtesy.

Rev. Stat.,
c. 223.

Rev. Stat.,
c. 103.

Waste by
tenants by
curtesy,
dowress, etc.

Waste by
tenant for
life without
impeach-
ment of
waste.

Waste be-
tween joint
tenants
and tenants
in common.

Waste by
lessees.

Release of
part of land
from
rent-charge.

28. Where a husband has issue born alive and capable of inheriting any land to which his wife is entitled in fee simple, or fee tail, if the husband survive his wife, whether such issue live or not, the husband shall, subject to *The Married Women's Property Act*, be entitled to an estate for his natural life in such land as may not have been disposed of by her deed or will; but if he has no such issue by his wife he shall not be entitled to any further or other estate or interest in such land in the event of surviving his wife, except such as may be devised to him by her will, or such as he may become entitled to under *The Devolution of Estates Act*. R.S.O. 1937, c. 152, s. 27.

29. A tenant by the curtesy, a dowress, a tenant for life or for years, and the guardian of the estate of an infant, shall be impeachable for waste, and liable in damages to the person injured. R.S.O. 1937, c. 152, s. 28.

30. An estate for life without impeachment of waste shall not confer upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right expressly appears by the instrument creating such estate. R.S.O. 1937, c. 152, s. 29.

31. Tenants in common and joint tenants shall be liable to their co-tenants for waste, or in the event of a partition, the part wasted may be assigned to the tenant committing such waste at the value thereof to be estimated as if no such waste had been committed. R.S.O. 1937, c. 152, s. 30.

32. Lessees making or suffering waste on the demised premises without licence of the lessors shall be liable for the full damage so occasioned. R.S.O. 1937, c. 152, s. 31.

33. The release from a rent-charge of part of the land charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of it out of the land released without prejudice to the rights of all persons interested in the land remaining unreleased and not concurring in or confirming the release. R.S.O. 1937, c. 152, s. 32.

34. Where by any deed, will or other instrument any land is limited to uses, all uses thereunder, whether expressed or implied by law, and whether immediate or future, or contingent or executory, or to be declared under any power therein contained, shall take effect when and as they arise by force of and by relation to the estate and seisin originally vested in the person seised to the uses, and the continued existence in him or elsewhere of any seisin to uses or *scintilla juris* shall not be necessary for the support of, or to give effect to, future or contingent or executory uses; nor shall any such seisin to uses or *scintilla juris* be deemed to be suspended or to remain or to subsist in him or elsewhere. R.S.O. 1937, c. 152, s. 33.

Abrogation
of doctrine
of *scintilla
juris*.

35. Every contingent remainder shall be capable of taking effect notwithstanding the determination by forfeiture, surrender or merger of any preceding estate of freehold. R.S.O. 1937, c. 152, s. 34.

Contingent
remainders.

36. There shall not be any merger by operation of law only of any estate, the beneficial interest in which, prior to *The Ontario Judicature Act, 1881*, would not have been deemed merged or extinguished in equity. R.S.O. 1937, c. 152, s. 35.

No merger
of estate by
operation of
law.
44 V. c. 5.

37. Where a person makes lasting improvements on land, under the belief that the land is his own, he or his assigns shall be entitled to a lien upon the same to the extent of the amount by which the value of the land is enhanced by such improvements; or shall be entitled or may be required to retain the land if the court is of opinion or requires that this should be done, according as may under all circumstances of the case be most just, making compensation for the land, if retained, as the court may direct. R.S.O. 1937, c. 152, s. 36.

Lien on lands
for improve-
ments under
mistake of
title.

38. No purchase made in good faith, and without fraud, of any reversionary interest in property shall be opened or set aside on the ground of undervalue. R.S.O. 1937, c. 152, s. 37.

Rule as to
purchases of
reversions.

39. It shall not be necessary, in order to maintain the defence of a purchase for value without notice, to prove payment of the mortgage money or purchase money or any part thereof. R.S.O. 1937, c. 152, s. 38.

Onus of
proof.

40. Any property may be conveyed by a person to himself jointly with another person, by the like means by which it might be conveyed by him to another person, and may in like manner be conveyed or assigned by a husband to his wife, or by a wife to her husband alone or jointly with another person. R.S.O. 1937, c. 152, s. 39.

Assignment
of property
to wife or
self and
others.

Conveyance of property to himself.

41. A person may convey property to or vest property in himself in like manner as he could have conveyed such property to or vested such property in another person. R.S.O. 1937, c. 152, s. 40.

Two or more persons may convey to any one or more of themselves.

42. Two or more persons, whether or not being trustees or personal representatives, may convey and shall be deemed always to have been capable of conveying any property vested in them to any one or more of themselves in like manner as they could have conveyed such property to a third party; provided that if the persons in whose favour the conveyance is made are, by reason of any fiduciary relationship or otherwise, precluded from validly carrying out the transaction, the conveyance shall be liable to be set aside. R.S.O. 1937, c. 152, s. 41.

Joint tenancy of corporation and an individual.

43.—(1) A body corporate shall be and is declared to have been capable of acquiring and holding any real or personal property in joint tenancy in the same manner as if it were an individual, and where a body corporate and an individual, or two or more bodies corporate, became or become entitled to any such property under circumstances or by virtue of any instrument which would, if the body corporate had been an individual, have created a joint tenancy, they shall be and are declared to have been entitled to the property as joint tenants; provided that the acquisition and holding of property by a body corporate in joint tenancy have been and shall be subject to the like conditions and restrictions as attach to the acquisition and holding of property by a body corporate in severalty.

Devolution on dissolution of corporate joint tenant.

(2) Where a body corporate is joint tenant of any property, on its dissolution the property shall devolve on the other joint tenant. R.S.O. 1937, c. 52, s. 42.

Effect of reservation of right-of-way or other easement.

44. Where by the terms of any conveyance of land, a right-of-way or easement is reserved or excepted from the land thereby transferred or charged, such reservation or exception shall be effectual and shall be deemed always to have been effectual to vest the right-of-way or easement in the transferor or chargor of the land, notwithstanding that the transferee or chargee does not execute the instrument. R.S.O. 1937, c. 152, s. 43.

Capacity of posthumous children to take in remainder.

45. Where any estate is, by any marriage or other settlement, limited in remainder to, or to the use of, the first or other son or sons of the body of any person lawfully begotten, with any remainder over to, or to the use of, any other person or in remainder to, or to the use of, a daughter lawfully

begotten, with any remainder to any other person, any son or daughter of such person lawfully begotten, or to be begotten, that shall be born after the decease of his or her father, shall, by virtue of such settlement, take such estate so limited to the first and other son or daughter in the same manner as if born in the lifetime of his or her father, although there may be no estate limited to trustees, after the decease of the father, to preserve the contingent remainder to such after-born son or daughter, until he or she come *in esse*, or is born, to take the same. R.S.O. 1937, c. 152, s. 44.

46. If any person, for whose life an estate is granted, remains out of Ontario or absents himself therein for the space of seven years together, so that it cannot be ascertained whether he is alive or dead, and no sufficient proof is made of the life of such person in any action commenced for recovery of such estate by the lessor or reversioner, the person upon whose life such estate depended shall be accounted as naturally dead, and in every action brought for the recovery of the estate by the lessor or reversioner, his heirs or assigns, judgment shall be given accordingly. R.S.O. 1937, c. 152, s. 45.

When death of *cestui que vie* presumed.

47. If any person is evicted out of any land by virtue of section 46, and if afterwards the person, upon whose life such estate depends, returns to Ontario, or in any action to be brought for recovery of the same, is shown to be living, or to have been living at the time of the eviction, the tenant or lessee who was ousted, his executors, administrators or assigns, may re-enter, repossess, have, hold, and enjoy, the land in his former estate, for and during the life, or so long a term as the person upon whose life the estate depends shall be living; and also shall, upon action to be brought by him against the lessor, reversioner, or tenant in possession, or other person, who, since the time of the eviction, received the profits of the land, recover for damages the full profits thereof, with lawful interest for, and from, the time that he was ousted, and kept or held out of the land by such lessor, reversioner, tenant in possession, or other person, whether the person, upon whose life such estate depends is living or dead at the time of bringing the action. R.S.O. 1937, c. 152, s. 46.

Right of tenant when *cestui que vie* proved to be living.

48.—(1) The Supreme Court may, on the application of any person who has any claim or demand in, or to, any remainder, reversion, or expectancy, in, or to, any estate in land, after the death of any person within age, married woman, or any other person whomsoever, upon affidavit made by the person so claiming such estate of his title, and that he has cause to believe that such minor, married woman, or other

Order for production of person at instance of reversioner, etc.

person, is dead, and that his, or her, death is concealed by the guardian, trustee, husband, or any other person, which application may be made once a year if the person aggrieved thinks fit, order that such guardian, trustee, husband, or other person concealing, or suspected to conceal, such person, do, at such time and place as the court directs, on personal or other due service of such order, produce and show to such person and persons, not exceeding two, as shall in such order be named by the party prosecuting such order, such minor, married woman, or other person.

Order for
production of
person before
commis-
sioner.

(2) If such guardian, trustee, husband, or such other person refuses or neglects to produce or show such minor, married woman, or such other person, on whose life any such estate depends, according to the directions of the order, the court is hereby authorized and required to order such guardian, trustee, husband, or other person, to produce such minor, married woman, or other person concealed, in the court, or otherwise before commissioners to be appointed by the court, at such time and place as the court directs, two of which commissioners shall be nominated by the party prosecuting such order, at his costs and charges.

Presumption
on failure to
produce.

(3) If such guardian, trustee, husband, or other person, refuses or neglects to produce such minor, married woman, or other person so concealed, in court, or before such commissioners, whereof return shall be made by such commissioners, and filed in the office of the Registrar of the Supreme Court at Osgoode Hall, in either, or any, of such cases, such minor, married woman, or other person, shall be taken to be dead, and it shall be lawful for any person claiming any right, title, or interest, in remainder or reversion, or otherwise, after the death of such minor, married woman or other person, to enter upon such land as if such minor, married woman, or other person were actually dead. R.S.O. 1937, c. 152, s. 47.

Where
person
required to
be produced
is out of
Ontario.

49. If it appears to the court by affidavit that such minor, married woman, or other person, is, or lately was, at some certain place out of Ontario in the affidavit to be mentioned, the party prosecuting such order, at his costs and charges, may send over one or both of the persons appointed by the order to view such minor, married woman, or other person, and if such guardian, trustee, husband, or other person, concealing, or suspected to conceal, such person, refuses or neglects to produce, or procure to be produced to such person or persons a personal view of such minor, married woman, or other person, then such person or persons shall make a true return of such refusal or neglect to the court, which shall be filed in the office of the Registrar of the Supreme Court at

Osgoode Hall and thereupon such minor, married woman, or other person, shall be taken to be dead, and any person claiming any right, title, or interest, in remainder, reversion, or otherwise, after the death of such minor, married woman, or other person, may enter upon such land as if such minor, married woman, or other person were actually dead. R.S.O. 1937, c. 152, s. 48.

50. If it afterwards appears, upon proof in any action to be brought, that such minor, married woman, or other person was alive at the time such order was made, such minor, married woman, guardian, or trustee, or other person, having any estate or interest determinable upon such life, may re-enter upon the land, and may maintain an action against those who, since the order, received the profits thereof, or their executors, or administrators, and recover full damages for the profits of the same received from the time that such minor, married woman, or other person, having any estate or interest determinable upon such life, was ousted of the possession of such land. R.S.O. 1937, c. 152, s. 49.

When it appears that person required to be produced was alive.

51. If any such guardian, trustee, husband, or other person, holding or having any estate or interest determinable upon the life of any other person, shall show, to the satisfaction of the court, that he has used his utmost endeavour to procure such minor, married woman, or other person, on whose life such estate or interest depends, to appear in court, or elsewhere according to the order, and that he cannot procure or compel such appearance, and that such minor, married woman, or other person, is living, or was living at the time such return was made and filed, the court may order that such person may continue in the possession of such estate, and receive the rents and profits thereof, during the infancy of such minor, and the life of any other person, on whose life such estate or interest next depends, as fully as he might have done if this and sections 48, 49 and 50 had not been enacted. R.S.O. 1937, c. 152, s. 50.

When it appears that guardian, etc., cannot produce person who is alive.

52. Every person having an estate or interest in land determinable upon any life, and the guardian or trustee for a minor having such an estate who, after the determination of such particular estate or interest, without the express consent of the person who is next and immediately entitled upon and after the determination of such particular estate or interest, holds over and continues in possession of any land, shall be deemed a trespasser, and every person entitled to any such land, upon and after the determination of such particular estate or interest, may recover in damages against every such person so holding over the full value of the profits received during such wrongful possession. R.S.O. 1937, c. 152, s. 51.

Guardians, trustees, etc., holding over without consent of remainderman, etc., deemed trespassers.

Assignments
of debts and
choses in
action.

53.—(1) Any absolute assignment, made on or after the 31st day of December, 1897, by writing under the hand of the assignor, not purporting to be by way of charge only, of any debt or other legal chose in action of which express notice in writing has been given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be effectual in law, subject to all equities which would have been entitled to priority over the right of the assignee if this section had not been enacted, to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same without the concurrence of the assignor.

Where
several
claimants
under
assignment.

(2) In case of an assignment of a debt or other chose in action, if the debtor, trustee or other person liable in respect of the debt or chose in action shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he thinks fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he thinks fit, pay the same into the Supreme Court under and in conformity with the provisions of law for the relief of trustees. R.S.O. 1937, c. 152, s. 52.

Bonds and
debentures
of corpora-
tions.

54.—(1) The bonds or debentures of a corporation made payable to bearer, or to any person named therein or bearer, may be transferred by delivery, and if payable to any person or order, after general endorsement thereof by such person, shall be transferable by delivery.

Rights of
holder.

(2) Any such transfer shall vest the property in the bond or debenture in the holder thereof and enable him to maintain an action thereon in his own name. R.S.O. 1937, c. 152, s. 53.

Auctions of
estates when
sale deemed
without
reserve.

55. Unless in the particulars or conditions of sale by auction of any land it is stated that such land will be sold subject to a reserved price, or to a right of the seller to bid, the sale shall be deemed to be without reserve. R.S.O. 1937, c. 152, s. 54.

Prohibition
against seller
bidding.

56. Upon any sale of land by auction, without reserve, it shall not be lawful for a seller or for a puffer to bid at such sale, or for the auctioneer to take, knowingly, any bidding from the seller or from a puffer. R.S.O. 1937, c. 152, s. 55.

When seller
may bid.

57. Upon any sale of land by auction, subject to a right of the seller to bid, it shall be lawful for the seller or any one puffer to bid at such auction in such manner as the seller may think proper. R.S.O. 1937, c. 152, s. 56.

58. Nothing in sections 55, 56 and 57 shall authorize any seller to become the purchaser at the sale. R.S.O. 1937, c. 152, s. 57. Seller not authorized to purchase.

59. If any seller or mortgagor of property or his solicitor or agent conceals any settlement, deed, will or other instrument material to the title, or any encumbrance, from the purchaser or mortgagee, or falsifies any pedigree upon which the title depends or may depend, in order to induce him to accept the title offered or produced to him, with intent to defraud, such seller, mortgagor, solicitor or agent, irrespective of any criminal liability he may thereby incur, shall be liable at the suit of the purchaser or mortgagee, or those claiming under him, for any loss sustained by them or either or any of them, in consequence of the settlement, deed, will or other instrument or encumbrance so concealed, or of any claim made by any person under such pedigree, whose right was so concealed by the falsification of such pedigree, and in the case of land in estimating such damages where the property is recovered from such purchaser or mortgagee, or from those claiming under him, regard shall be had to any expenditure by them, or either or any of them, in improvements on the land. R.S.O. 1937, c. 152, s. 58. Liability of vendor or mortgagor for fraudulent concealment of deeds, etc., or falsifying pedigree.

60. An order of the court under any statutory or other jurisdiction shall not, as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction, or of want of any concurrence, consent, notice or service. R.S.O. 1937, c. 152, s. 59. Orders of court, effect of.

61.—(1) Where there is annexed to any land any condition or covenant that such land or any specified portion thereof is not to be built on or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land, any such condition or covenant may be modified or discharged by order of a judge of the Supreme Court. Restrictive covenants, modification or discharge of.

(2) Before making any such order the judge shall cause notice of the application to be given to such persons as appear to him to be interested in the relief sought either by personal service, advertisement or by registered mail as he shall direct. Notice of application.

(3) An appeal shall lie to the Court of Appeal from the decision of a judge under subsection 1. Appeal.

(4) Nothing in this section shall apply to building restrictions imposed by any by-law passed under *The Municipal Act*. R.S.O. 1937, c. 152, s. 60. Exception. Rev. Stat., c. 243.

CHAPTER 69

The Co-operative Marketing Loans Act

1. In this Act,

Interpre-
tation.

- (a) "co-operative association" means any co-operative corporation of producers incorporated under Part XII of *The Companies Act* for the purpose of grading, cleaning, packing, storing, drying, processing or marketing farm products; Rev. Stat., c. 59.
- (b) "Minister" means Minister of Agriculture;
- (c) "regulations" means regulations made under this Act;
- (d) "Treasurer" means Treasurer of Ontario. R.S.O. 1937, c. 85, s. 1; 1946, c. 13, s. 1.

2.—(1) This Act may be extended by the Lieutenant-Governor in Council to associations other than co-operative associations incorporated under *The Companies Act* if the majority of the shares of capital stock thereof are owned by producers of agricultural products. Extension of Act. Rev. Stat., c. 59.

(2) No loan shall be made to any association mentioned in subsection 1 unless a contract is entered into by the association with the Minister according to the form prescribed by the regulations and providing for such limitations and conditions as will ensure control of the management and operation of the association remaining vested in producers until the loan is fully repaid. Conditions of loan.

(3) When a loan is made to an association mentioned in subsection 1 the provisions of this Act relating to co-operative associations shall apply *mutatis mutandis*. Application of provisions of Act. R.S.O. 1937, c. 85, s. 2.

3. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make loans to co-operative associations to assist in carrying out their objects to the following extent, namely: Limitation as to loan.

- (a) in the case of a co-operative association, other than a cold storage association, to an amount not exceeding \$15,000;
- (b) in the case of a co-operative cold storage association to an amount not exceeding 50 per cent of the approved value of the property on which the loan is to be made, but in no case to exceed the sum of \$65,000. R.S.O. 1937, c. 85, s. 3; 1946, c. 13, s. 2.

Rate of interest.

4.—(1) Subject to the regulations, the rate of interest payable upon any loan made under this Act shall be as provided for in the contract relating thereto.

Repayment of loan.

(2) A loan may be repaid at any time at the option of the co-operative association, but repayment of principal shall be commenced not more than three years from the date of the loan and so that at least 50 per cent shall be repaid at the end of 10 years from such date and so that the whole of the loan shall be repaid at the end of 20 years from such date, and every contract shall make the necessary provisions to ensure such repayment. R.S.O. 1937, c. 85, s. 4.

Security for loan on chattel.

Rev. Stat., c. 36.

5.—(1) Every loan made on a chattel shall be secured by a chattel mortgage made in favour of the Treasurer and made in accordance with *The Bills of Sale and Chattel Mortgages Act*.

Security for loan on real estate.
Rev. Stat., c. 362.

(2) Every loan made on real estate shall be secured by a first mortgage on such real estate made in favour of the Treasurer in accordance with *The Short Forms of Mortgages Act*.

Rights and powers of Treasurer.

(3) Every mortgage, whether on real estate or a chattel, may contain such further covenants, provisoes and conditions as the Treasurer may deem proper, and the Treasurer shall have and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act that a mortgagee has and may exercise under the laws of Ontario.

Preparation of notices, mortgages, etc.

(4) All notices, mortgages, discharges and other documents of every kind and description which may be made under this Act, except a contract made with the Minister, shall be prepared by a person designated by the Treasurer.

Assignment of mortgage.

(5) Every mortgage, whether on real estate or a chattel, heretofore given as security for a loan made under this Act may be assigned by the Minister, the Agricultural Development Board or the Commissioner of Agricultural Loans to the Treasurer. R.S.O. 1937, c. 85, s. 5.

6. The Minister shall lay before the Assembly at each session a report of all loans made under this Act and the regulations. R.S.O. 1937, c. 85, s. 6. Minister's report to Assembly.

7. Every co-operative association to which an undischarged loan has been made shall make such annual or other reports, returns and statements to the Treasurer as the regulations may prescribe. R.S.O. 1937, c. 85, s. 7. Report of co-operative association.

8. Every co-operative association to which an undischarged loan has been made shall by written notice advise the Treasurer of the time and place of each annual meeting and the Treasurer or his representative shall have the privilege of attending all meetings. R.S.O. 1937, c. 85, s. 8. Notice of annual meeting.

9. The Treasurer may, if in his opinion it is necessary, by notice to the secretary, call a meeting of the members or shareholders of any co-operative association to which an undischarged loan has been made to inquire into its affairs at such time and place as he may specify in the notice. R.S.O. 1937, c. 85, s. 9. Treasurer may call meeting.

10.—(1) The Treasurer may appoint some person to inspect the books, accounts and property of any co-operative association to which an undischarged loan has been made and may empower such person to summon witnesses and enforce the production of documents before him, and take evidence upon oath with regard to such inspection, and all officers of any such association whenever required so to do shall submit the books and accounts thereof to such inspection and shall truly and to the best of their knowledge answer all questions put to them in relation thereto or to the funds and management of such association. Inspection of books.

(2) The Treasurer may order such alterations or repairs to be made to the property of any co-operative association for the purpose of better securing a loan made under this Act. R.S.O. 1937, c. 85, s. 10. Alterations and repairs.

11. If a co-operative association to which a loan has been made makes any default in the performance of the terms of the contract entered into with the Minister or otherwise commits a breach of any of the provisions of this Act, or in the opinion of the Treasurer, fails or ceases to carry out its objects, the Treasurer may without resort to proceedings in equity or law rescind the contract and without notice, exercise any and all of his powers of sale as mortgagee as in the case of default on the part of a mortgagor notwithstanding that no actual default in payment of principal or interest under the mortgage may have occurred. R.S.O. 1937, c. 85, s. 11. Default in performance or breach of provisions.

Regulations. **12.** The Lieutenant-Governor in Council may make regulations,

- (a) prescribing the form and manner of making application and a contract for a loan and the manner in which each application shall be dealt with;
- (b) prescribing the rates of interest to be payable upon loans made under this Act;
- (c) providing for inspection and valuation of the property upon which the loan is to be secured;
- (d) respecting inquiries to be made and information to be furnished with respect to the object of the loan before making the loan;
- (e) respecting any other matter regarding which the Minister or Treasurer deems regulations necessary for the execution of the purposes of this Act. R.S.O. 1937, c. 85, s. 12.

Powers of
Minister.

13. The Minister may decide all matters of doubt or dispute arising under this Act and his decision shall be final except that an appeal therefrom may be made to the Lieutenant-Governor in Council. R.S.O. 1937, c. 85, s. 13.

Loans made
during 1931.

14. This Act shall apply to loans made to co-operative associations during the year 1931 as if such loans had been made immediately after this Act came into force. R.S.O. 1937, c. 85, s. 14.

Lieutenant-
Governor in
Council
authorized
to guarantee
payment of
loans to co-
operative
associations.

15.—(1) The Lieutenant-Governor in Council is authorized on such terms as may be approved by Order in Council to agree to guarantee and to guarantee the payments of any loans, and interest thereon, made to a co-operative association, or an association to which the provisions of this Act are extended under the authority of section 2, and the form and manner of any such guarantee shall be such as the Lieutenant-Governor in Council may approve, and the guarantee shall be signed by the Treasurer or such other officer or officers as may be designated by the Lieutenant-Governor in Council, and upon being so signed the Province of Ontario shall become liable for the payment of the loan and interest thereon guaranteed according to the terms of the guarantee, and the Lieutenant-Governor in Council is hereby authorized to make arrangements for supplying the money necessary to fulfil the requirements of any guarantee and to advance the amount necessary for that purpose out of the public funds of the

Province, and any guarantee so signed shall be conclusive evidence that the terms of this section have been complied with. R.S.O. 1937, c. 85, s. 15.

(2) The provisions of sections 7, 8, 9, 10, 12 and 13 relating to loans shall apply *mutatis mutandis* to every guarantee made under this section. 1940, c. 28, s. 9.

Application
of certain
sections as
to guaran-
tees.

CHAPTER 70

The Coroners Act

1. The Lieutenant-Governor in Council may appoint one ^{Coroners, appointment.} or more coroners for any municipality or provisional judicial district. 1948, c. 17, s. 1.

2.—(1) The Lieutenant-Governor in Council may appoint ^{Supervising coroner, appointment;} a coroner for Ontario, to be known as supervising coroner, who shall act in an advisory capacity to coroners and who shall have such other powers and perform such other duties as may be prescribed by the regulations.

(2) In lieu of fees the supervising coroner shall be paid out ^{salary.} of the Consolidated Revenue Fund such salary as may be fixed by the Lieutenant-Governor in Council. 1948, c. 17, s. 2.

3.—(1) The Lieutenant-Governor in Council may appoint ^{Chief coroners, appointment;} a coroner, to be known as chief coroner, for any city having a population of more than 100,000 who shall have control over the coroners for the city and who shall have such other powers and perform such other duties as may be prescribed by the regulations.

(2) In lieu of fees every chief coroner shall be paid half- ^{salaries.} yearly by the corporation of the city such salary as may be fixed by the Lieutenant-Governor in Council, and the Corporation of the City of Toronto shall be reimbursed out of the Consolidated Revenue Fund to the extent of one-third of such salary, and the corporation of any other city having a chief coroner shall be reimbursed out of the Consolidated Revenue Fund to the extent of one-half of such salary. 1948, c. 17, s. 3.

4. A certified copy of the Order in Council appointing a ^{Appoint-ments to be filed.} coroner shall be sent by the Inspector of Legal Offices to the clerk of the peace of the county or district in which the coroner is to act, and shall be filed by him in his office. 1948, c. 17, s. 4.

5. The Attorney-General may in writing direct any coroner ^{Extended jurisdiction.} to act in any designated municipality or provisional judicial district in addition to the municipality or provisional judicial

district for which he was appointed, and a coroner to whom such direction is given shall have the same powers and perform the same duties within the designated municipality or provisional judicial district as a coroner appointed for the designated municipality or provisional judicial district. 1948, c. 17, s. 5.

Where magistrates may act.

6. The Attorney-General or the Crown attorney for the district may in writing direct any magistrate in a provisional judicial district to act as a coroner for the district and a magistrate to whom such direction is given shall have the same powers and perform the same duties within the district as a coroner appointed for the district. 1948, c. 17, s. 6.

Duty to give information to coroner.

7.—(1) Every practitioner, funeral director or embalmer and every person occupying a house in which a deceased person was residing, who has reason to believe that the deceased person died as a result of violence or misadventure or by unfair means or as a result of negligence or misconduct or malpractice on the part of others, or from any cause other than disease or under such circumstances as may require investigation, shall immediately notify a coroner having jurisdiction in the place where the body of the deceased person is, of the facts and circumstances relating to the death.

Where no medical attendant.

(2) The notice required by subsection 1 shall be given in every case where such practitioner, funeral director, embalmer or occupant is aware that the deceased had been suffering from disease or sickness and had not been treated or attended by a legally qualified medical practitioner. 1948, c. 17, s. 7.

No embalming, etc., of body.

8. Where there is reason to believe that a deceased person died in any of the circumstances mentioned in section 7, the body of the deceased person shall not be embalmed or cremated and no chemical shall be applied to it externally or internally and no alteration of any kind shall be made thereto until the coroner so directs. 1948, c. 17, s. 8.

Penalty.

9. Every person who fails to comply with section 7 or 8 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500 or to imprisonment for a term of not more than six months, or both. 1948, c. 17, s. 9.

Warrant for possession of body; investigation.

10.—(1) Where a coroner is informed that there is within his jurisdiction the body of a deceased person and that there is reason to believe that the deceased person died in any of the circumstances mentioned in section 7, he shall issue his

warrant to take possession of the body and shall view the body and make such further investigation as may be required to enable him to determine whether or not an inquest is necessary.

(2) The coroner may, with the consent of the Crown ^{Experts.} attorney, employ experts to assist him in the investigation.

(3) After the issue of the warrant no other coroner shall ^{Jurisdiction.} issue a warrant or interfere in the case, except under the instructions of the Attorney-General or the Crown attorney or where it is otherwise provided in the regulations. 1948, c. 17, s. 10.

11.—(1) Where a death occurs at a place that is difficult ^{Where death occurs in inaccessible place.} for the coroner who has issued his warrant to take possession of the body to attend, he may, with the consent of the Crown attorney, authorize and direct a legally qualified medical practitioner, magistrate or member of the Ontario Provincial Police Force to take possession of the body, view the body and make such further investigation as may be required to enable the coroner to determine whether or not an inquest is necessary and to report to him.

(2) Upon receipt of the report the coroner shall proceed as ^{Coroner to decide if inquest necessary.} if he himself had viewed the body and made the investigation. 1948, c. 17, s. 11.

12.—(1) Where the coroner determines that an inquest is ^{Warrant for burial where inquest unnecessary.} unnecessary he shall issue his warrant to bury the body, and shall forthwith transmit to the Crown attorney a statutory declaration setting forth briefly the result of the investigation and the grounds on which the warrant has been issued, and shall also forthwith transmit to the division registrar a notice of the death in the form prescribed by *The Vital Statistics Act*. ^{Rev. Stat., c. 412.}

(2) Notwithstanding that the matters mentioned in sub- ^{Crown may direct inquest.} section 1 have taken place, the Attorney-General or the Crown attorney may direct the coroner who decided that an inquest was unnecessary, or some other coroner, to hold an inquest upon the body, and the coroner to whom such direction is given shall forthwith issue his warrant for an inquest and hold the same accordingly. 1948, c. 17, s. 12.

13. Where the coroner determines that an inquest is neces- ^{Warrant for inquest.} sary, he shall issue his warrant for the holding of an inquest, and shall forthwith transmit to the Crown attorney a statutory declaration setting forth briefly the result of the investigation and the grounds upon which he determined that an inquest should be held. 1948, c. 17, s. 13.

Authority
to hold
inquest.

14. No inquest shall be held unless the Attorney-General, the Crown attorney or the supervising coroner directs the holding thereof or consents thereto, or unless the holding of the inquest is required by this or any other Act of the Legislature or by any Act of the Parliament of Canada. 1948, c. 17, s. 14.

Death due
to events
occurring
beyond
jurisdiction.

15. Where a coroner has issued his warrant to take possession of a body within his jurisdiction and it appears that the death resulted from any of the circumstances mentioned in section 7 and that such circumstances occurred at a place beyond his jurisdiction, he shall take possession of the body and shall view the body and make such further investigation as may be required to enable him to determine whether or not an inquest is necessary, and where he determines that an inquest is necessary he may, with the consent of the Crown attorney, at any time during the course of the proceedings, transfer the inquest to a coroner having jurisdiction at such place and the inquest shall be conducted by such coroner as though the body was within his jurisdiction and he had issued the warrant; but the coroner issuing the warrant may take evidence to prove the fact of death, the identity of the body and the *post mortem* examination of the body, and such evidence shall be transmitted to and received by the coroner holding the inquest as part of the proceedings before him. 1948, c. 17, s. 15; 1948, c. 87, s. 1.

Where body
destroyed
or removed
from
Ontario.

16. Where a coroner has reason to believe that a death has occurred in circumstances that warrant the holding of an inquest but, owing to the destruction of the body in whole or in part or to the fact that the body is lying in a place from which it cannot be recovered, or that the body has been removed from Ontario, an inquest cannot be held except by virtue of this section, he may report the facts to the Attorney-General and the Attorney-General may direct an inquest to be held touching the death, in which case an inquest shall be held by the coroner making the report or by such other coroner as the Attorney-General may direct, and the law relating to coroners and coroners' inquests shall apply with such modifications as may be necessary in consequence of the inquest being held otherwise than on or after a view of the body. 1948, c. 17, s. 16.

Attorney-
General
may direct
coroner to
hold
inquest.

17. Where the Attorney-General has reason to believe that a death has occurred in Ontario in circumstances that warrant the holding of an inquest, he may direct any coroner to hold an inquest and the coroner shall hold the inquest into the death in accordance with this Act whether or not his commission extends to the place where the death occurred or

where the body is located and whether or not he or any other coroner has viewed the body, made any investigation, held any inquest or done any other act in connection with the death. 1948, c. 17, s. 17.

18.—(1) Where a person has been charged with a criminal offence arising out of a death, an inquest touching the death shall be held only upon the direction of the Attorney-General. Where criminal offence charged.

(2) Where during an inquest any person is charged with a criminal offence arising out of the death, the coroner shall discharge the jury and close the inquest, and shall then proceed as if he had determined that an inquest was unnecessary, provided that the Attorney-General may direct that the inquest be re-opened. 1948, c. 17, s. 18. Idem.

19.—(1) No coroner shall conduct an inquest upon the body of a person whose death has occurred on a railway or at a mine or other work that he owns in whole or in part or that is owned or operated by a company in which he is a shareholder, or in respect of which he is employed as medical attendant or in any other capacity by the owner thereof, or under any agreement or understanding, direct or indirect, with the employees thereof. When coroner disqualified.

(2) Where a coroner conducts an inquest in violation of this section, he shall incur a penalty of not less than \$100 and not more than \$500, to be sued for and recovered by anyone in any court of competent jurisdiction. Violation of section.

(3) It shall be sufficient for the plaintiff in any such action to allege that the defendant is indebted to him in the sum claimed and the particular inquest for which the action is brought and that the defendant has acted in violation of this Act. Form of claim for penalty.

(4) The action shall be commenced within one year after the inquest was held and shall be tried by a judge without a jury. 1948, c. 17, s. 19. Limitation.

20.—(1) Where a coroner has ordered an inquest upon the body of a person who has met death by violence in a wreck, the coroner may take charge of the wreckage and place one or more constables in charge thereof so as to prevent persons from disturbing the wreckage until the jury at the inquest has viewed the same, or the coroner has made such examination as he deems necessary. Power of coroner to take charge of wreckage.

(2) The jury or coroner, as the case may be, shall view the wreckage at the earliest moment possible. 1948, c. 17, s. 20. View to be expedited.

Death of inmate of home for the aged.

21. Where an inmate of a county or district home for the aged dies, the superintendent or other officer in charge shall immediately give notice of the death to a coroner and the coroner shall investigate the circumstances of the death and if, as a result of such investigation he is of opinion that an inquest ought to be held he shall issue his warrant and hold an inquest upon the body. 1948, c. 17, s. 21.

Death of prisoner.

22. Where a prisoner in a gaol, reformatory, industrial farm or lock-up dies, the gaoler, superintendent or keeper thereof shall immediately give notice of the death to a coroner, and the coroner shall issue his warrant and hold an inquest upon the body. 1948, c. 17, s. 22.

Post mortem, where inquest held;

23.—(1) The coroner may, by his warrant, at any time before the termination of the inquest, direct that a *post mortem* examination of the body be made by a legally qualified medical practitioner and that an analysis be made of the blood, urine, or the contents of the stomach and intestines or that such other special examination or analysis be made as the circumstances warrant.

where no inquest held.

(2) Where no inquest is held, no *post mortem* examination or analysis shall be made without the consent in writing of the Attorney-General, the Crown attorney or the supervising coroner. 1948, c. 17, s. 23.

Notice to Crown attorney.

24.—(1) Every coroner before holding an inquest shall notify the Crown attorney of the time and place at which it is to be held and the Crown attorney may, and if directed by the Attorney-General shall, attend the inquest and may examine or cross-examine the witnesses.

Special counsel.

(2) The Attorney-General may be represented at any inquest by counsel in addition to or in lieu of the Crown attorney and such counsel shall have the same powers as the Crown attorney under subsection 1. 1948, c. 17, s. 24.

Witnesses.

25.—(1) The coroner shall summon such persons to attend an inquest as he deems advisable or as may be specified by the Crown attorney or the counsel for the Attorney-General.

Powers of coroners re witnesses.

(2) In addition to any other powers which he may possess a coroner shall have the same power to issue summonses to witnesses, to enforce their attendance and to punish for non-attendance or refusing to give evidence as is possessed by the Supreme Court.

Fine for non-attendance.

(3) A fine imposed for non-attendance or refusal to give evidence shall not, in the case of a medical practitioner, exceed \$40, and in the case of any other witness shall not exceed \$10.

(4) A witness shall be deemed to have objected to answer any question upon the ground that his answer may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown, or of any person, and the answer so given shall not be used or be receivable in evidence against him in any trial or other proceeding against him thereafter taking place, other than a prosecution for perjury in giving such evidence. 1948, c. 17, s. 25.

Answer not
receivable
against
witness.

26.—(1) The number of jurymen to be summoned to serve on an inquest shall be five and where less than five of the jurymen so summoned appear at the time and place appointed for the inquest, the coroner may direct a constable to name and appoint so many persons then present or who can be found as will make up a jury of five. 1948, c. 17, s. 26 (1).

Juries.

(2) Where a person duly summoned to serve as a juror does not attend, the coroner may impose upon him a fine of not more than \$20. 1948, c. 17, s. 26 (2), *amended*.

Penalty
for non-
attendance.

(3) Where an inquest is held in a provisional judicial district, the coroner with the consent in writing of the Crown attorney may hold the inquest without a jury. 1948, c. 17, s. 26 (3).

Inquest
without jury
in district.

27. A person shall not be qualified to serve as a juror unless he is named in the voters' list of the municipality and marked therein as qualified to serve as a juror, nor shall a person who has acted as a juror at an inquest act in a similar capacity within one year. 1948, c. 17, s. 27.

Qualifica-
tion of
jurors.

28. An officer, employee or inmate of a home for the aged, hospital, mental hospital, charitable institution, jail, reformatory, industrial farm or lock-up shall not be qualified to serve as a juror at an inquest upon the body of a person who died therein. 1948, c. 17, s. 28.

Disquali-
fication.

29. It shall not be necessary for a jury to view the body upon which an inquest is being held if the coroner, with the consent in writing of the Crown attorney, directs that the viewing of the body is to be dispensed with. 1948, c. 17, s. 29.

View of
body may be
dispensed
with.

30. A verdict or finding may be returned by a majority of the jurors sworn. 1948, c. 17, s. 30.

Majority.

31. A summons to a juror or to a witness may be served by personal service or by sending it by prepaid registered mail addressed to the usual place of abode of the person summoned. 1948, c. 17, s. 31.

Service of
summonses.

Taking
evidence in
shorthand.

32.—(1) The evidence upon an inquest or any part of it, with the consent in writing of the Crown attorney, may be taken in shorthand by a stenographer who may be appointed by the coroner, and who before acting shall make oath that he will truly and faithfully report the evidence, and where evidence is so taken it shall not be necessary that it be read over to or signed by the witness, but it shall be sufficient if the transcript is signed by the coroner and is accompanied by an affidavit of the stenographer that it is a true report of the evidence.

Transcrip-
tion of
evidence.

(2) It shall not be necessary to transcribe the evidence taken by a stenographer unless the Attorney-General or Crown attorney orders it to be done or unless any other person requests a copy of the transcript and pays to the stenographer the fees therefor. 1948, c. 17, s. 32.

Inter-
preters.

33. A coroner may, and if required by the Crown attorney shall, employ a person to act as interpreter at an inquest, and such person may be summoned to attend the inquest and before acting shall make oath that he will truly and faithfully translate the evidence. 1948, c. 17, s. 33.

Constables.

34. A coroner may appoint such persons as constables as he deems necessary for the purpose of assisting him in an inquest, and before acting every such constable shall make oath that he will faithfully perform his duties. 1948, c. 17, s. 34.

Return of
inquisition.

35. The coroner shall forthwith, after an inquest, return the verdict or finding, and every recognizance taken before him, with the evidence where the Attorney-General or Crown attorney has ordered it to be transcribed, and the exhibits, to the Crown attorney. 1948, c. 17, s. 35.

Stationery;
accommoda-
tion.

36. The municipality or provisional judicial district for which a coroner is appointed or in which he is directed to act shall provide him with,

- (a) necessary stationery, forms and postage;
- (b) a suitable place for holding inquests; and
- (c) a suitable place for holding *post mortem* examinations,

but if a suitable place is not provided, the coroner may procure a suitable place and the cost thereof, when approved by the Crown attorney and certified by the coroner, shall be paid by the treasurer of such municipality or provisional judicial district. 1948, c. 17, s. 36.

37.—(1) Coroners' fees and mileage allowances for holding investigations and inquests shall be those set out in Schedule A, provided that where the Attorney-General is of opinion that the prescribed fees are insufficient having regard to the special circumstances of any investigation or inquest, he may approve a larger fee to any coroner. Fees, coroners';

(2) Crown attorney's fees and expenses for attending inquests shall be those set out in *The Administration of Justice Expenses Act*. Crown attorneys'; Rev. Stat., c. 5.

(3) Constables' fees and mileage allowances for services rendered in connection with an inquest shall be those set out in *The Administration of Justice Expenses Act*. constables'; Rev. Stat., c. 5.

(4) Witnesses' and jurors' fees and mileage allowances for attending inquests shall be those set out in Schedule B. witnesses' and jurors';

(5) Stenographers' fees for services rendered in connection with an inquest shall be upon the scale appointed for shorthand writers under *The County Judges Act*, and when certified by the coroner shall be paid in the same manner as witness fees. steno-graphers'; Rev. Stat., c. 76.

(6) Interpreters' fees for services rendered at an inquest shall be such as are deemed reasonable by the Crown attorney and when certified by the coroner shall be paid in the same manner as witness fees. interpreters';

(7) The fees for *post mortem* examinations and analyses shall be those set out in Schedule C. 1948, c. 17, s. 37. medical examiners'.

38.—(1) The coroner shall render the account for his fee and mileage allowance for holding an investigation or inquest to the treasurer of the jurisdiction responsible for the payment of the expenses of the administration of justice in which the investigation or inquest is held, and when the account has been audited by the county board of audit, or where the investigation or inquest is held in a provisional judicial district, by the Auditor of Criminal Justice Accounts, the treasurer shall pay the amount specified therein. Coroners' accounts.

(2) The Crown attorney's account for his fee and expenses for attending an inquest and a constable's account for his fee and travelling expenses for services rendered in connection with an inquest shall be rendered and paid in the manner provided in *The Administration of Justice Expenses Act*. Crown attorneys' and constables' accounts. Rev. Stat., c. 5.

Witnesses'
jurors',
stenog-
raphers'
and inter-
preters'
accounts.

(3) The coroner shall give to every witness and juror entitled to a fee and mileage allowance and to every stenographer and interpreter entitled to a fee an order on the treasurer of the jurisdiction responsible for the payment of the expenses of the administration of justice in which the inquest is held, for the payment thereof, and upon presentation of the order the treasurer, if satisfied of the correctness thereof, shall pay the amount specified therein.

Post mortem
examination
accounts.

(4) A legally qualified medical practitioner shall render his account for his fee,

(a) for any *post mortem* examination or analysis under item 1 or 2 of Schedule C, to the treasurer of the jurisdiction responsible for the payment of the expenses of the administration of justice in which the investigation or inquest is held, and when the account has been audited by the county board of audit or, when the investigation or inquest was held in a provisional judicial district, by the Auditor of Criminal Justice Accounts, the treasurer shall pay the amount specified therein; or

Rev. Stat.,
c. 5.

(b) for any examination or analysis under item 3 of Schedule C, in the manner provided in *The Administration of Justice Expenses Act*. 1948, c. 17, s. 38.

Cost of
inquests in
districts.

39. Where an investigation or inquest is held by a coroner in a provisional judicial district, the cost thereof shall be payable by the treasurer of the district as provided in section 38 and when the accounts therefor have been audited by the Auditor of Criminal Justice Accounts the cost shall be paid out of such moneys as may be appropriated therefor by the Legislature as part of the expenses of the administration of justice of the district. 1948, c. 17, s. 39.

Cost of
inquests in
counties.

40. Where an investigation or inquest is held by a coroner in that part of Ontario having county organization, the cost thereof shall be payable as provided in section 38 by the treasurer of the jurisdiction responsible for the payment of the expenses of the administration of justice in which the investigation or inquest was held, and when the accounts therefor have been audited by the county board of audit and the Auditor of Criminal Justice Accounts, the jurisdiction that paid the same shall be reimbursed out of such moneys as may be appropriated therefor by the Legislature for the coroner's fee and mileage allowance, for the constable's fee and mileage allowance and for three-fifths of the fee for any examination or analysis under item 3 of Schedule C. 1948, c. 17, s. 40.

41. Where an investigation or inquest is held and it is found that the cause of death did not arise in the jurisdiction responsible for the payment of the expenses of the administration of justice in which the investigation or inquest was held, the cost thereof shall on demand be repaid by the treasurer of the jurisdiction in which the cause of death arose. 1948, c. 17, s. 41.

42. Where a fine is imposed by a coroner under this Act, it shall be payable forthwith, and if it is not so paid the coroner may commit the person so failing to pay to gaol for a period of not more than 10 days. 1948, c. 17, s. 42.

43. In proceedings under this Act it shall not be necessary for any person to affix a seal to any document, and no document shall be invalidated by reason of the lack of a seal even though the document purports to be sealed. 1948, c. 17, s. 43.

44. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing the powers and duties of the supervising coroner;
- (b) prescribing the powers and duties of chief coroners;
- (c) prescribing the forms required for carrying out this Act. 1948, c. 17, s. 44.

SCHEDULE A

Coroners

1. For all services in an investigation where no inquest is held, a fee of \$10.00.
2. For all services where an inquest is held in part, a fee of \$15.00.
3. For all services where an inquest is held and completed, a fee of \$25.00.
4. For every mile necessarily travelled in connection with an investigation or inquest, a mileage allowance of 15 cents a mile.

1948, c. 17, Sched. A.

SCHEDULE B

Witnesses and Jurors

1. For every day of attendance of a witness or juror who resides within the city, town, village or township in which the inquest is held, a fee of \$1.50.
2. For every day of attendance of a witness or juror who resides outside the city, town, village or township in which the inquest is held, a fee of \$2.00.
3. For every day of attendance of a legally qualified medical practitioner as a medical practitioner, a fee of \$5.00.
4. For every day of attendance of an expert witness such fee, not exceeding \$15.00, as the coroner deems proper or such greater fee as the Attorney-General may approve.
5. For preparing a plan, furnishing any article or doing any work for use at an inquest, in addition to the fee to which the witness would ordinarily be entitled, such special fee as the coroner may deem proper and the Crown attorney may approve.
6. For every mile necessarily travelled one way from witness' or juror's residence to where the inquest is held, a mileage allowance of 15 cents a mile, provided that where the inquest is held in a city in which the witness or juror resides, the mileage allowance shall be 75 cents.

1948, c. 17, Sched. B.

SCHEDULE C

Post Mortem Examinations, etc.

1. For a *post mortem* examination, a fee of \$25.00.
2. For an analysis of the contents of the stomach and intestines, a fee of \$25.00.
3. For any examination or analysis other than those mentioned in items 1 and 2, such fee as is authorized under *The Administration of Justice Expenses Act*.
4. The amount of any fee under this Schedule may be increased by 15 cents for every mile necessarily travelled in connection with an examination or analysis.

1948, c. 17, Sched. C; 1949, c. 17, s. 1.

CHAPTER 71

The Corporation Securities Registration Act

1. In this Act, unless the context otherwise requires, Interpre-
tation.
- (a) “assignment of book debts” includes every legal or equitable assignment by way of security of, and every mortgage or other charge upon book debts;
 - (b) “assignor” means any corporation making an assignment of book debts;
 - (c) “book debts” means all such accounts and debts, whether existing or future, as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof;
 - (d) “chattels” means goods and chattels capable of complete transfer by delivery, and includes when separately assigned or charged, fixtures and growing crops; but does not include chattel interests in real property or fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed, or growing crops, when assigned with any interest in the land on which they grow, or a ship or vessel registered under the laws of Canada or any share in such ship or vessel, or shares or interests in the stock, funds or securities of a government, or in the capital of a corporation, or book debts or other choses in action;
 - (e) “corporation” includes a company, corporation or body corporate wherever or however incorporated;
 - (f) “creditors” means creditors of the mortgagor or assignor, whether execution creditors or not, who become creditors before the registration of the mortgage, charge or assignment, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the general benefit of creditors, a trustee under the

R.S.C. 1927,
cc. 11, 213.

Bankruptcy Act (Canada) and a liquidator of a company under the *Winding-up Act* (Canada) or under a provincial Act containing provisions for the winding up of companies, without regard to the time when the creditor so suing becomes a creditor or when the assignee, trustee or liquidator is appointed;

- (g) "mortgagor" includes a corporation which executes a charge, and "mortgagee" includes a person in whose favour a charge is created;
- (h) "subsequent purchasers or mortgagees" includes any person who obtains, whether by way of purchase, mortgage, charge or assignment, an interest in chattels or book debts which have already been mortgaged, charged or assigned. R.S.O. 1937, c. 264, s. 1.

Instruments
to be
registered.

2.—(1) Every mortgage and every charge, whether specific or floating, of chattels in Ontario created by a corporation, and every assignment of book debts, whether by way of specific or floating charge, made by a corporation engaged in a trade or business in Ontario and contained,

- (a) in a trust deed or other instrument to secure bonds, debentures or debenture stock of the corporation or of any other corporation; or
- (b) in any bonds, debentures or debenture stock of the corporation as well as in the trust deed or other instrument securing the same, or in a trust deed or other instrument securing the bonds, debentures or debenture stock of any other corporation; or
- (c) in any bonds, debentures or debenture stock or any series of bonds or debentures of the corporation not secured by a separate instrument,

shall be absolutely void as against creditors of the mortgagor or assignor, and as against subsequent purchasers or mortgagees from or under the mortgagor or assignor, in good faith, for valuable consideration and without notice, unless it is duly registered, and unless, if contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, it complies with subsection 2.

Affidavit of
bona fides.

(2) If the mortgage, charge or assignment is contained in a trust deed or other instrument to secure bonds, debentures or

debenture stock, the instrument containing it shall be accompanied by an affidavit of the mortgagee, trustee, or grantee or one of the mortgagees, trustees or grantees, his or their agent, or, if the mortgagee, trustee or grantee is a corporation, of any officer or agent of the corporation, stating that the instrument containing the mortgage, charge or assignment was executed in good faith and for the purpose of securing payment of the bonds, debentures or debenture stock referred to therein and not for the mere purpose of protecting the chattels or book debts therein mentioned against the creditors of the mortgagor or assignor or preventing such creditors from obtaining payment of any claim against the mortgagor or assignor.

(3) A mortgage, charge or assignment required to be registered under this Act shall, as against creditors and the subsequent purchasers or mortgagees referred to in subsection 1, take effect only from the time of its registration. R.S.O. 1937, c. 264, s. 2. When charge to take effect.

3.—(1) Registration of every mortgage, charge or assignment, shall, save as provided by subsection 2, be effected by filing with the Provincial Secretary a duplicate original of the instrument containing the mortgage, charge or assignment, together with the affidavit required by subsection 2 of section 2, and an affidavit made by any officer or agent of the mortgagor or assignor stating the date of the execution of the instrument by the mortgagor or assignor, within 30 days from the date of the execution of the instrument. Registration, when charge made of.

(2) Registration of every mortgage, charge or assignment, contained in bonds, debentures or any series thereof, or in debenture stock, not secured by a separate instrument, shall be effected by filing with the Provincial Secretary, within 30 days after the execution of the bonds, debentures or debenture stock, an affidavit made by any officer or agent of the mortgagor or assignor, setting forth, Registration when charge in bond, etc.

- (a) the total amount secured by the bonds, debentures or series thereof, or debenture stock;
- (b) a true copy of the bond or debenture or of one bond or debenture of the series or of the debenture stock certificate; and
- (c) the date of execution. R.S.O. 1937, c. 264, s. 3.

4. Any affidavit made for the purposes of this Act by an officer or agent of a corporation shall state that the deponent Affidavit of corporation officer.

is aware of the circumstances connected with the transaction and has a personal knowledge of the facts deposed to. R.S.O. 1937, c. 264, s. 4.

Time
expiring on
holiday.

5. When the time for filing an instrument containing a mortgage, charge or assignment, or an affidavit, expires on a Sunday or other day on which the office of the Provincial Secretary is closed, the filing shall, so far as regards the time of filing, be valid if made on the next following day on which the office is open. R.S.O. 1937, c. 264, s. 5.

Minutes of
registration.

6. The Provincial Secretary shall cause every instrument containing a mortgage, charge or assignment, and every affidavit filed in his office under this Act to be numbered, to be endorsed with a memorandum of the day, hour and minute of its filing and to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the mortgage, charge or assignment, the date of execution of the instrument containing the same or of the bonds, debentures or debenture stock not secured by separate instrument, as shown by the affidavit filed, and the date of filing and the amount secured as shown by the instrument or by the affidavit. R.S.O. 1937, c. 264, s. 6.

Rectification
of omissions
and mis-
statements.

7.—(1) Subject to the rights of other persons accrued by reason of any omission or misstatement referred to in this section, a judge of the Supreme Court, on being satisfied that the omission to file an instrument or affidavit within the time prescribed by this Act or any omission or misstatement in any document filed under this Act was accidental or due to inadvertence or impossibility or other sufficient cause, may, in his discretion, extend the time for registration, or order the omission or misstatement to be rectified on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter or thing, as he thinks fit to direct.

Idem.

(2) The order or a copy thereof shall be annexed to the instrument or affidavit or document or copy thereof on file or tendered for filing, and appropriate entries shall be made in the register. R.S.O. 1937, c. 264, s. 7.

Defects
and irregu-
larities.

8. No defect or irregularity in the execution of an instrument containing a mortgage, charge or assignment, no defect, irregularity or omission in any affidavit, and no error of a clerical nature or in an immaterial or non-essential part shall invalidate or destroy the effect of the mortgage, charge or assignment or the registration thereof, unless in the opinion of the court or judge before whom a question relating thereto

is tried, such defect, irregularity, omission or error has actually misled some person whose interests are affected by the mortgage, charge or assignment. R.S.O. 1937, c. 264, s. 8.

9.—(1) An assignment of a mortgage or charge of chattels ^{Assignments and discharges.} or of an assignment of book debts within this Act need not, but may, be filed with the Provincial Secretary.

(2) A mortgage or charge or assignment of book debts ^{Discharge and partial discharge.} registered under this Act may be discharged in whole or in part by filing with the Provincial Secretary a certificate of discharge signed by the mortgagee, trustee, or assignee, his or its executors, administrators, successors or assigns, and, except in the case of a certificate of discharge executed by a corporation under its corporate seal, the certificate shall be accompanied by the affidavit of an attesting witness of the execution thereof; but in case a mortgage, charge or assignment of book debts has been assigned, no certificate of discharge by an assignee shall be filed until the assignment has been filed.

(3) In the case of a mortgage, charge or assignment contained in bonds, debentures or any series thereof, or in debenture stock, not secured by a separate instrument, the Provincial Secretary may, on evidence being given to his satisfaction that the debt for which the mortgage, charge or assignment was given as security has been paid or satisfied, enter a memorandum of discharge in the register, and shall, if required, furnish the corporation with a copy thereof. ^{Discharge when charge on face of securities.}

(4) The Provincial Secretary shall note the fact of such ^{Entry of assignment or discharge.} assignment or discharge against each entry in the books of his office respecting the filing of the instrument or affidavit, and shall make a like notation upon that instrument or upon the affidavit filed under subsection 2 of section 3. R.S.O. 1937, c. 264, s. 9.

10.—(1) Upon payment of the prescribed fees the Provincial Secretary shall give a certificate under his hand of the filing of any instrument or affidavit in pursuance of this Act, and of the day and hour of such filing, and a certificate as to prior registrations, if any, of mortgages, charges or assignments created or made by the mortgagor or assignor. ^{Certificate of filing.}

(2) Every certificate furnished by the Provincial Secretary ^{Evidence.} touching any matter dealt with by this Act, shall be received for all purposes as *prima facie* evidence of the facts set out in the certificate, and every copy of a document filed under this Act, certified by the Provincial Secretary, shall be received

as *prima facie* evidence for all purposes as if the original document were produced, and also as *prima facie* evidence of the execution of the original document according to the purport of such copy.

Proof not
required of
Provincial
Secretary's
signature.

(3) No proof shall be required of the signature of the Provincial Secretary in respect of any certificate produced as evidence pursuant to this section. R.S.O. 1937, c. 264, s. 10.

Searches.

11. Upon payment of the prescribed fees every person shall have access to and be entitled to inspect the books of the Provincial Secretary containing records or entries of mortgages, charges or assignments or documents registered or filed under this Act, and no person shall be required as a condition of his right thereto to disclose the name of the person in respect of whom such access or inspection is sought, and the Provincial Secretary shall, upon request, accompanied by payment of the prescribed fees, produce for inspection any mortgage, charge, assignment or document so registered or filed. R.S.O. 1937, c. 264, s. 11.

Fees.

12. For services under this Act the Provincial Secretary shall be entitled to receive such fees as may be from time to time prescribed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 264, s. 12.

Application
of Act.

13. This Act shall apply only to mortgages or charges of chattels or assignments of book debts executed on or after the 30th day of May, 1932. R.S.O. 1937, c. 264, s. 13.

Charges
created
before
passing
of Act.

14. A mortgage or charge of chattels or an assignment of book debts made before the 30th day of May, 1932, which if the same had been executed on or after the 30th day of May, 1932, would be within this Act and which was properly registered or filed under any Act respecting the same shall, notwithstanding anything contained in that Act or any other Act of the Legislature, not be required to be renewed. R.S.O. 1937, c. 264, s. 14.

Rev. Stat.,
cc. 36, 25,
not to apply.

15. *The Bills of Sale and Chattel Mortgages Act* and *The Assignment of Book Debts Act* shall not apply to any mortgage, charge or assignment the registration of which is provided for in this Act. R.S.O. 1937, c. 264, s. 15.

Interpre-
tation of Act.

16. This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of the provinces that enact it. R.S.O. 1937, c. 264, s. 16.

CHAPTER 72

The Corporations Tax Act

1. In this Act,

Interpre-
tation.

- (a) "bank" means a corporation or joint stock company wherever incorporated for the purpose of doing a banking business or the business of a savings bank that transacts such business in Ontario, whether the head office is situate in Ontario or elsewhere; 1939, c. 10, s. 1, cl. (a).
- (b) "company" includes bank, extra-provincial company, insurance company and incorporated company; 1939, c. 10, s. 1, cl. (c).
- (c) "dividends" includes stock dividends; 1939, c. 10, s. 1, cl. e.
- (d) "extra-provincial company" means an incorporated company that has its head office elsewhere than in Ontario; 1939, c. 10, s. 1, cl. (f).
- (e) "head office" means the place designated in the charter or by-laws, or both, of a company as being its chief office or place of business and includes, when such chief office or place of business is outside of Ontario, the place designated by the company or the Treasurer as being its principal office or place of business in Ontario, unless the central accounting records including the central executive management of the company are maintained outside of Ontario or unless the Treasurer determines that such principal office or place of business is not the head office of the company; 1949, c. 18, s. 1 (1).
- (f) "income bond" and "income debenture" mean respectively a bond and debenture, the interest or dividend on which is payable only when the debtor company has made a profit before taking into account the interest or dividend obligation on such bond or debenture; 1939, c. 10, s. 1, cl. (h).

Rev. Stat.,
c. 183.

Rev. Stat.,
c. 59.

(g) "insurance company" includes life, fire, ocean or inland marine, inland transportation, accident, plate-glass, automobile, steam-boiler and burglary insurance companies, guaranty, surety and casualty companies and underwriters and syndicates of underwriters operating on the plan known as Lloyds, that transact business or undertake risks on lives or property in Ontario or that are licensed under *The Insurance Act*, but does not include mutual insurance companies, insuring agricultural and other non-hazardous risks on the premium note plan, the sole business of which is carried on in Ontario, fraternal societies and mutual benefit societies as defined in *The Insurance Act*, and pension fund and employees' mutual benefit societies incorporated under or subject to *The Companies Act*; 1939, c. 10, s. 1, cl. (i); 1941, c. 15, ss. 1, 9.

(h) "incorporated company" includes corporation and association however and wherever incorporated, and where any such corporation or association, or the whole or any part of the property thereof, is placed in the hands or under the control of an agent, assignee, trustee, liquidator, receiver or other official includes such agent, assignee, trustee, liquidator, receiver or other official but does not include any incorporated company that owns, operates or uses a race track and holds a race meeting; 1939, c. 10, s. 1, cl. (j).

(i) "loss" means a loss for a fiscal year computed by applying section 14 respecting the computation of the net income of an incorporated company, *mutatis mutandis*, but excluding from the computation the exemptions provided by clauses f, g and j of subsection 4 of section 14; 1949, c. 18, s. 1 (2).

(j) "property" includes money, goods, things in action, land and property of every description, whether real or personal, legal or equitable, and every interest or profit, present or future, vested or contingent in, arising out of or incident to property; 1939, c. 10, s. 1, cl. (e).

(k) "railway" includes a railway and part of a railway in Ontario operated in whole or in part by steam, electricity or other motive power, constructed and operated on highways or on land owned by the company that owns or operates it, or partly on high-

ways and partly on such land, but does not include a street railway constructed or operated in whole or in part upon or along a highway under or by virtue of an agreement with, or by-law of a city or town; 1939, c. 10, s. 1, cl. (m).

(l) "regulations" means regulations made under this Act; 1939, c. 10, s. 1, cl. (n).

(m) "transacting business in Ontario" includes the transaction of any business obtained in Ontario by a company through its own office or branch in Ontario and also includes the transaction of any business obtained by an extra-provincial company through the efforts of any other company or any firm, broker, agent or other person that has an office in or is a resident of Ontario when such company, firm, broker, agent or other person acts as the representative or agent of, or in any other capacity for such extra-provincial company, but does not include the taking of orders for or the buying or selling of goods, wares or merchandise by travellers or by correspondence if no business is obtained through the efforts of any company, firm, broker, agent or other person that has an office in or is a resident of Ontario; 1939, c. 10, s. 1, cl. (o).

(n) "Treasurer" means Treasurer of Ontario. 1939, c. 10, s. 1, cl. (p).

2.—(1) Every company that has its head office or other office in Ontario, or that holds assets in Ontario, or that transacts business in Ontario, shall for every fiscal year of the company pay to His Majesty for the uses of Ontario the taxes imposed under this Act at the time and in the manner provided in this Act. Taxes payable.

(2) For the purposes of this Act the Treasurer may determine the period of any fiscal year of any company in order to prevent a fiscal year from occupying a longer period than 12 months, provided that for every fiscal year of less than 12 months there may be subsequently a fiscal year of more than 12 months if the total period of both of such fiscal years does not exceed 24 months nor shall it be necessary for any fiscal year of a company to occupy any substantial part of a year. Fiscal year.

(3) Subject to subsection 2, where a company ceases to have an office or to hold assets or to transact business in Ontario or the existence of which is terminated during any Incomplete fiscal year.

fiscal year, it shall, in respect of such incompleting fiscal year, pay the taxes imposed under this Act in the same manner as though such fiscal year ended on the date on which it ceased to have an office or to hold assets or to transact business in Ontario or upon which its existence was terminated. 1939, c. 10, s. 2.

Designation
of principal
office in
Ontario.

(4) For the purposes of this Act, every company, the head office of which is designated in its charter or by-laws, or both, as being outside of Ontario, shall designate a place as its principal office or place of business in Ontario and, where no such place is designated by the company, the Treasurer shall designate such place.

Arms-length.

(5) For the purposes of this Act,

- (a) a company and a person or one of several persons by whom it is directly or indirectly controlled; or
- (b) two or more companies controlled directly or indirectly by the same person,

shall, without extending the meaning of the expression "to deal with each other at arms-length", be deemed not to deal with each other at arms-length. 1949, c. 18, s. 2.

Banks.

3.—(1) Every bank shall for every fiscal year of such bank, pay,

- (a) a tax of one-fifth of one per cent on the paid-up capital stock thereof and one-tenth of one per cent on the reserve fund and undivided profits thereof;
- (b) an additional tax of \$3,000 for the principal office in Ontario and \$200 for each additional office, branch or agency in Ontario, provided that in the case of such additional offices, branches and agencies that were open during the fiscal year less than 250 days, one tax of \$200 shall apply for each 250 days or fraction thereof that all such offices, branches and agencies were open.

Reduction
in certain
cases.

(2) Where the head office of a bank is outside of Ontario, and where it has not more than five offices, branches and agencies in Ontario, the Treasurer, having regard to the amount of business transacted in Ontario, may reduce the amount of the tax imposed under clause *a* of subsection 1, but such tax shall in no case be less than one-tenth of one per cent calculated on one-half of the paid-up capital stock. 1939, c. 10, s. 3.

4.—(1) Every insurance company shall pay a tax in respect of life insurance premiums of two per cent calculated on the gross premiums received during the fiscal year from policy holders resident in Ontario at the time such premiums were paid excluding,

- (a) considerations for annuities;
- (b) cash value of dividends paid or credited to policy holders;
- (c) premiums returned;
- (d) premiums received in respect of reinsurance assumed; and
- (e) premiums paid in respect of casualty reinsurance ceded to insurance companies licensed to transact business in Ontario. 1939, c. 10, s. 4 (1); 1948, c. 18, s. 1 (1).

(2) Every insurance company shall pay a tax in respect of premiums other than life insurance premiums of two per cent calculated on the gross premiums received during the fiscal year by the company or its agent or agents in respect of business transacted in Ontario excluding,

- (a) premiums returned;
- (b) premiums paid in respect of reinsurance ceded to insurance companies licensed to transact business in Ontario;
- (c) premiums received in respect of business written on the premium note plan; and
- (d) cash value of dividends paid or credited to policy holders by mutual insurance companies. 1948, c. 18, s. 1 (2).

(3) In determining the amount of the tax payable under subsection 2 every premium that by the terms of the policy or renewal thereof, is payable in respect of insurance of a person or property resident or situate in Ontario at the time of payment whether or not,

- (a) such premium is earned wholly or partly in Ontario;
- (b) the business in respect of the policy is transacted wholly or partly in Ontario; or

(c) the payment of such premium is made, wholly or partly in Ontario,

shall be deemed to be a premium in respect of business transacted in Ontario.

Unfair discrimination.

(4) Where it is established to the satisfaction of the Lieutenant-Governor in Council that any country or any state of any country discriminates unfairly by imposing taxes, fees and other monetary obligations on any insurance company or any particular class of insurance companies organized under the laws of Canada or of Ontario and having their principal offices in Ontario that in the aggregate are in excess of comparable taxes, fees and monetary obligations imposed on any similar company or class of companies incorporated under the laws of such country or state, the Lieutenant-Governor in Council may direct that any company or any class of companies incorporated under the laws of such country or state and that transact business in Ontario shall pay, in addition to the tax otherwise imposed under this Act, a tax not exceeding the equivalent of such excess, and such additional tax shall be recoverable in the same manner as any other tax imposed under this Act.

Fiscal year.

(5) For the purposes of this Act, the fiscal year of every insurance company shall be deemed to end on the 31st day of December. 1939, c. 10, s. 4 (3-5).

Railway mileage.

5.—(1) Every incorporated company that owns, operates or uses a railway shall for every fiscal year of the company pay a tax of \$60 per mile for one track, and, where the line consists of two or more tracks, of \$40 per mile for each additional track, owned, operated or used in any municipality in Ontario, and of \$40 per mile for one track, and, where the line consists of two or more tracks, of \$20 per mile for each additional track, in territory without municipal organization in Ontario, provided that an incorporated company that owns, operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system does not exceed 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside of Ontario, shall, in lieu of such tax, pay a tax of \$15 per mile for one track in Ontario and where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario, and, where the railway or system does not exceed 30 miles in length between such terminals, a tax of \$10 per mile for one track in Ontario and where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario.

(2) In addition to the tax imposed under subsection 1, every ^{Additional tax.} incorporated company that owns, operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, exceeds 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside of Ontario, shall for every fiscal year of the company, pay a tax of \$25 per mile for one track in Ontario, and, where the line consists of two or more tracks, of \$20 per mile for each additional track in Ontario.

(3) Both the company that owns the railway and the ^{Company owning and company operating liable.} company that operates or uses it shall be liable jointly and severally for the payment to the Treasurer of the amount of the taxes imposed under this section, but the total amount payable in respect of any railway, shall not exceed the amounts above mentioned, notwithstanding that the railway is owned, operated or used by more than one company.

(4) The measurement of track for purposes of this section ^{Exception.} shall not include switches, spurs or sidings.

(5) Section 46 shall not apply to the tax imposed under ^{S. 46 not to apply.} subsection 2.

(6) Where an incorporated company that owns, operates or ^{Subsidiary companies.} uses a railway, owns or controls other incorporated companies that are not taxable under this section, such other incorporated companies shall be taxable under such other sections of this Act as are applicable, without regard to the taxes payable by their parent company under this section. 1939, c. 10, s. 5.

6. Every incorporated company that owns, operates or uses ^{Telegraph companies.} a line or part of a line of telegraph in Ontario for gain, including every incorporated company that owns, operates or uses a railway, shall for every fiscal year of the company, pay a tax of one per cent upon the total amount of money invested by the company on such line or part thereof and the plant and works connected therewith; provided that an incorporated company that owns and an incorporated company that operates and uses any such line or part thereof shall be liable jointly and severally for the payment of such tax, but the total amount payable in respect of such line or part thereof and the works and plant connected therewith shall not exceed the total amount of tax imposed under this section notwithstanding that the line or part thereof is owned, operated or used by more than one company. 1939, c. 10, s. 6.

Express
companies.

7. Every incorporated company that carries on the business of an express company over a railway in Ontario, including an incorporated company that owns, operates or uses a railway, shall for every fiscal year of the company pay a tax of \$800 for each 100 miles or fraction thereof, up to but not exceeding a tax of \$10,000. 1939, c. 10, s. 8.

Car
companies.

8. Every incorporated company, except those that own, operate or use a railway, that transacts in Ontario the business of operating, leasing or hiring sleeping, parlour or dining cars run upon or used by any railway in Ontario, shall for every fiscal year of the company pay a tax of one per cent calculated on the money invested in such cars in use in Ontario. 1939, c. 10, s. 9.

Further tax.

9. Every company on which taxes are imposed under section 3, 5, 6, 7 or 8 shall, for every fiscal year of the company, pay an additional tax equal to 25 per cent of the taxes imposed under such sections on the company. 1948, c. 18, s. 2.

Other
incorporated
companies,

10.—(1) Save as in this section otherwise provided, every incorporated company that has its head or other office in Ontario or that holds assets in Ontario or that transacts business in Ontario, shall for every fiscal year of the company pay a tax of one-twentieth of one per cent calculated on its paid-up capital.

Interpre-
tation.

(2) In this section and in section 12 "paid-up capital" means the paid-up capital as it stood at the close of the fiscal year and includes the paid-up capital stock of the company, its earned, capital and any other surplus, all its reserves, whether created from revenue or otherwise, except any reserve the creation of which is allowed as a charge against income under section 14, all sums or credits advanced or loaned to it by any other incorporated company, excluding a bank, and all its indebtedness, whether assumed or undertaken by it, represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which any of its property is subject. 1939, c. 10, s. 10 (1, 2).

Exceptions,

(3) The tax imposed under subsection 1 shall not be imposed on any incorporated company,

banks;

(a) that is a bank;

insurance
companies;

(b) that is an insurance company; 1939, c. 10, s. 10 (3),
cls. (a, b).

- (c) that is a mutual insurance company that insures ^{mutual insurance companies, etc.;} agricultural and other non-hazardous risks on the premium note plan, the sole business of which is carried on in Ontario, or that is a fraternal society or mutual benefit society as defined in *The Insurance Act*, or that is a pension fund or employees' mutual benefit society incorporated under or subject to *The Companies Act*; 1941, c. 15, s. 3 (1). ^{Rev. Stat., cc. 183, 59.}
- (d) that owns, operates or uses a railway, except as ^{railways;} provided by section 11;
- (e) that owns, operates or uses a line or part of a line ^{telegraph companies;} of telegraph in Ontario; 1939, c. 10, s. 10 (3), cls. (c, d).
- (f) that owns, operates or uses a telephone line or part ^{telephone companies;} thereof in Ontario and that has a paid-up capital of less than \$100,000; 1939, c. 10, s. 10 (3), cl. (e); 1941, c. 15, s. 3 (2).
- (g) that carries on the business of an express company ^{express companies;} over a railway in Ontario;
- (h) that operates, leases or hires sleeping, parlour or ^{car companies;} dining cars run or used in Ontario;
- (i) the business operations of which are of an industrial, mining, commercial, public utility or public service ^{companies with business and assets abroad;} nature, and are carried on entirely outside of Ontario, either directly or through subsidiary or affiliated companies, and the assets of which, except securities acquired by the investment of accumulated income and such bank deposits as may be held in Ontario, are situated entirely outside of Ontario, including wholly-owned subsidiary companies that are engaged solely in the prosecution outside of Ontario of the business of the parent company;
- (j) the business operations of which are of an invest- ^{idem;} ment or financial nature and carried on entirely outside of Ontario and the shares of which have been offered for public subscription or are listed on any recognized stock exchange in Ontario or elsewhere, and the assets of which, except such bank deposits as may be held in Ontario and except shares of other companies conforming to the requirements of this clause or of clause i, are situated entirely outside of Ontario, provided that the shares, bonds and obliga-

tions of any company incorporated under the laws of Canada or of Ontario, with head office in Ontario, shall for the purposes of this clause be deemed to be assets in Ontario notwithstanding that they may be or have been transferred on any register outside of Ontario;

companies
whose assets
consist of
shares,
bonds, etc.,
of other
companies;

(k) that maintains a head office or executive office or both in Ontario, and the assets of which consist wholly of the shares and bonds of, and loans and advances to other companies and of bank deposits;

companies
in receiver-
ship, etc.;

(l) all of the property of which is in the hands or subject to the control of a liquidator, receiver or trustee, and none of the property of which is used either by the company or the liquidator, receiver or trustee in transacting any of the businesses or undertakings for which the company was incorporated;

non-
operating
companies;

(m) that in the opinion of the Treasurer, has not commenced to transact business or has ceased to transact business;

companies
without
share
capital;

(n) that was incorporated without share capital;

religious,
charitable,
etc.,
companies;

(o) that was incorporated for religious, charitable, philanthropic, social or educational purposes or for the purposes of drainage, agriculture or colonization in Ontario and no part of the income of which inures to the personal profit of or is paid or payable to any shareholder therein;

community
clubs;

(p) that was incorporated to operate clubs, societies and associations for social welfare, civic improvement, pleasure, recreation or other non-profitable purposes, no part of the income of which inures to the personal profit of or is paid or payable to any shareholder therein;

co-operative
companies;

(q) that is organized and operated on a co-operative basis and

(i) that markets the products of its members or shareholders under the obligation to pay to them the proceeds from the sales on the basis of quantity and quality, less a reasonable amount for expenses and reserves, or

- (ii) that purchases supplies and equipment for the use of its members or shareholders under the obligation to turn such supplies and equipment over to them at cost, plus a reasonable amount for expenses and reserves, or
 - (iii) that markets the products of, or purchases supplies and equipment for the use of persons other than its members or shareholders, provided that the value thereof does not exceed 20 per cent of the value of products, supplies and equipment marketed or purchased for its members or shareholders, or
 - (iv) that is a credit union;
 - (r) that is organized for the purpose of financing the operations of and is owned or controlled by any other incorporated company that is exempt from taxation under clause q; companies that finance co-operative companies;
 - (s) that transacts the business of transporting passengers or freight, or both, the head office and entire transportation system of which is situated outside of Ontario and that in the opinion of the Treasurer maintains an office in Ontario for the purpose only of soliciting business for its system outside of Ontario and that in the opinion of the Treasurer does not sell transportation at its office in Ontario; but if any such company does sell transportation at its office in Ontario, it shall pay a tax of \$50. 1939, c. 10, s. 10 (3), cls. (f-r). transportation companies.
- (4) Paid-up capital as hereinbefore defined shall be subject to the following exemptions and deductions: Exemptions and deductions from paid-up capital.
- (a) Goodwill or other intangible thing included as an asset to the extent that such goodwill or other intangible thing in the opinion of the Treasurer has no value; provided that this exemption shall apply to no more than 50 per cent of the book value of such goodwill or other intangible thing. Goodwill.
 - (b) Discount allowed on the sale of the shares of a company incorporated under Part XI of *The Companies Act*. Discount on shares. Rev. Stat., c. 59.
 - (c) The amount that equals that proportion of the paid-up capital remaining after the deduction of the Investments.

exemptions provided by clauses *a* and *b*, which the cost of the investments made by the company in the shares and bonds of other companies, in loans and advances to other companies and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total assets of the company remaining after the deduction of the exemptions provided by clauses *a* and *b*; provided that cash on deposit with any incorporated company doing the business of a savings bank and amounts due by a parent company with head office outside of Canada to a subsidiary company taxable under this section shall not be deemed to be loans and advances to other companies. 1939, c. 10, s. 10 (4), cls. (*a-c*).

Capital
held in
mine and
mill.

(*d*) In the case of a company engaged in mining, the amount that equals that proportion of the paid-up capital remaining after the deduction of the exemptions provided by clauses *a*, *b* and *c* which the total of,

(i) the amount held or used in the survey for exploration and development of gold, silver, copper, nickel, iron or other precious or semi-precious metals,

(ii) the amount invested in the mine as defined by *The Mining Tax Act*,

(iii) the amount invested in the plant and works necessary to and forming part of such mine, and

(iv) the amount invested in the plant and works necessary for the refinement of the ore taken from the mine,

Rev. Stat.,
c. 237.

bears to the total assets remaining after the deduction of the exemptions provided by clauses *a*, *b* and *c*. 1947, c. 19, s. 1.

Real estate
companies.

(*e*) In the case of a company the only business of which is the holding of real estate for sale or rent or the owning of buildings used as hotels, apartment houses and for offices, or both, the amount that equals that portion of the paid-up capital that is in excess of an amount of capital of which the net income earned from the operation of such business after

depreciation but before deductions of interest and dividends on any of the obligations of the company that are included as its paid-up capital, would be eight per cent; provided that where the exemption under this clause applies, none of the exemptions under clauses *a* to *d* shall apply.

- (f) In the case of a company all of the property of which ^{Companies in receiver-ship, etc.} is in the hands or subject to the control of a liquidator, receiver or trustee and any of the property of which is used either by the company or the liquidator, receiver or trustee in carrying on any of the businesses or undertakings for which the company was incorporated, the amount that equals that portion of the paid-up capital that is in excess of an amount of capital of which the net income earned from carrying on any of such businesses or undertakings after depreciation but before deduction of interest and dividends on any of the obligations of the company that are included as its paid-up capital, would be eight per cent; provided that where the exemption under this clause applies, none of the exemptions under clauses *a* to *e* shall apply. 1939, c. 10, s. 10 (4); cls. (f, g).

(5) A company shall be entitled to deduct from the tax ^{Deductions from tax on paid-up capital.} calculated on paid-up capital that would otherwise be payable under this section the amount of the tax calculated on paid-up capital that was paid or payable during the fiscal year for which the tax under this section is imposed to the government of any province, state or country outside of Ontario, with the exception of any tax paid or payable to the Dominion of Canada, provided that such deduction shall not at any time exceed, or in the case of any such company the head office of which is situated outside of Ontario shall neither be less than nor exceed, the amount of the tax that would otherwise be payable in respect of paid-up capital deemed to be used within each such province, state or country and provided that the paid-up capital deemed to be used within each such province, state or country shall be determined as follows:

- (a) In the case of a company the business of which ^{Ship transportation companies.} is that of ship transportation, the amount of the paid-up capital that shall be deemed to have been used in each such province, state or country shall be that portion of the total paid-up capital remaining after the deduction of the exemptions provided by clauses *a*, *b* and *c* of subsection 4, which the amount

of the tonnage of each of its ships that operated during the fiscal year of the company and that touched at a port in such province, state or country multiplied by the number of times each such ship touched at a port in such province, state or country during such fiscal year plus the amount of tonnage of each of its ships that did not operate during such fiscal year and that was held at a port in such province, state or country, bears to the total of the amount of the tonnage of its ships that operated during such fiscal year multiplied by the number of times each such ship called at any port during such fiscal year and of the tonnage of its ships that did not operate during such fiscal year.

Transportation companies.

- (b) In the case of a company the business of which is that of transporting passengers or freight or both by bus, truck or aircraft, the amount of the paid-up capital that shall be deemed to have been used in each such province, state or country shall be that portion of the total paid-up capital remaining after the deduction of the exemptions provided by clauses *a*, *b* and *c* of subsection 4, which the number of miles travelled by its buses, trucks or aircraft during the fiscal year of the company in each such province, state or country bears to the total number of miles travelled by its buses, trucks or aircraft during such fiscal year. 1939, c. 10, s. 10 (5), cls. (*a*, *b*).

Real estate and mining companies.

- (c) In the case of a company the business of which is the holding of real estate for sale or rent, or that merely holds assets, or that owns and operates international or interprovincial bridges or tunnels or both, or the operations of which in the opinion of the Treasurer tend to deplete the natural resources of Canada, the amount of the paid-up capital that shall be deemed to have been used in each such province, state or country shall be that portion of the total paid-up capital remaining after the deduction of the exemptions provided by clauses *a* to *f* of subsection 4, which the book value of the fixed assets and the goods and supplies as shown by the inventories situated in each such province, state or country bear to the book value of the total fixed assets and the goods and supplies as shown by the inventories.

Grain companies.

- (d) In the case of a company the chief business of which is the operation of grain elevators, the amount of

the paid-up capital that shall be deemed to have been used in each such province, state or country shall be that portion of the total paid-up capital remaining after the deduction of the exemptions provided by clauses *a*, *b*, *c* and *f* of subsection 4, which the number of bushels of grain received during the fiscal year in the elevators operated by the company in each such province, state or country bears to the number of bushels of grain received during the fiscal year in all the elevators operated by the company.

- (e) In the case of every other company, the amount of the paid-up capital that shall be deemed to have been used in each such province, state or country shall be that portion of the total paid-up capital remaining after the deduction of the exemptions provided by clauses *a*, *b*, *c* and *f* of subsection 4, which the gross sales made to or the gross revenue received from customers residing in each such province, state or country, bear to the total gross sales made or gross revenue received; provided that gross revenue from investments in the shares, bonds and obligations of other companies and of governments and municipal and school corporations shall be excluded from the calculation; and for the purposes of this clause the residence of a customer shall be deemed to be, with respect to sales made to or gross revenue received from customers residing in Canada, in the province,
- (i) in which the goods sold by the company are received by the customer,
 - (ii) in which the services sold by the company are performed for the customer, or
 - (iii) in which the customer uses any property, invention, trade name or other thing from which the company derives its remaining gross revenue represented by rents, royalties or similar payments,

and with respect to sales made to or gross revenue received from customers residing outside of Canada, in the province,

- (iv) from which the order for the goods sold is filled by the company,

(v) in which, by contract, the company receives payment for services performed outside of Canada, or

(vi) in which, by contract, the company receives payment of its remaining gross revenue represented by rents, royalties or similar payments for the use outside of Canada of any property, invention, trade name or other thing,

unless the company is subject to taxation on paid-up capital in the state or country outside of Canada where the customer actually resides, in which case the residence of the customer shall be deemed to be in such state or country. 1949, c. 18, s. 3.

Evidence.

(6) Any deduction provided by subsection 5 shall be allowed only if the company furnishes evidence satisfactory to the Treasurer showing the amount of tax paid or payable during its fiscal year to the government of each such province, state or country in respect of paid-up capital. 1939, c. 10, s. 10 (6).

Railway
companies;
tax on
capital.

11. In addition to the tax imposed under section 5, every incorporated company that owns, operates or uses a railway and that also owns, operates or uses one or more hotels in Ontario shall for every fiscal year of the company pay a tax of one-twentieth of one per cent calculated on that amount of capital of which the net income earned from the operation of such hotel or hotels after depreciation but before deduction of interest or dividends on any of the obligations of the company paid or payable with respect to any capital invested in such hotel or hotels, would be eight per cent. 1939, c. 10, s. 11.

Tax on
offices.

12.—(1) Save as in this section otherwise provided, every incorporated company that has its head office or other office in Ontario or that transacts business in Ontario shall for every fiscal year of the company pay a tax of \$50 for each office or place of business in Ontario, and every incorporated company that holds assets in Ontario but has no designated office or place of business, shall for every fiscal year of the company, in addition to all other taxes for which it may be liable, pay a tax of \$50. 1939, c. 10, s. 12 (1).

Interpre-
tation.

(2) In this section, "office or place of business" means,

(a) the head office of the company, except where such office is not the only office of the company in Ontario and is maintained merely as a nominal head office at which the company transacts no business;

- (b) the executive office of the company;
- (c) a building or part of a building or any property where the company carries on any of its operations;
- (d) a building, office, room or location where the company invites patronage either through its name being placed in public view on the property, or through a listing of its name in a telephone or other directory giving its address at a certain location, or through an advertisement in the press giving the name of the company and its address at a certain location;
- (e) the office or room of any company, firm, broker, agent or other person acting as the representative or agent of or in any other capacity for the company;
- (f) a permanent sample depot, where a representative of the company may display examples of its products that are for sale;
- (g) a depot where a representative of the company may buy materials for the use of the company; or
- (h) a depot for the distribution of goods. 1939, c. 10, s. 12 (2); 1941, c. 15, s. 4 (1).

(3) Where a company, firm, broker, agent or other person is acting as the agent or representative of or in any other capacity for more than one incorporated company, each of such companies shall be deemed to be maintaining an office or place of business in the office or place of business of such company, firm, broker, agent or other person. Acting for more than one company.

(4) Offices or places of business defined by clauses *c, d, e, f, g* and *h* of subsection 2 shall be deemed separate offices and places of business only in such cases where each of them is located apart from the head office or executive office of the company. 1939, c. 10, s. 12 (3, 4). Exceptions.

(5) Any tax imposed under this section shall not be imposed on any incorporated company, Where no tax payable.

- (a) that is a bank;
- (b) that is an insurance company; 1939, c. 10, s. 12 (5), cls. (a, b).

Rev. Stat.,
cc. 183, 59.

- (c) that is a mutual insurance company that insures agricultural and other non-hazardous risks on the premium note plan, the sole business of which is carried on in Ontario, or that is a fraternal society or mutual benefit society as defined in *The Insurance Act*, or that is a pension fund or employees' mutual benefit society incorporated under or subject to *The Companies Act*; 1941, c. 15, s. 4 (2).
- (d) that owns, operates or uses a railway, except as provided by section 13;
- (e) that owns, operates or uses a line or part of a line of telegraph in Ontario;
- (f) that transacts the business of an express company over a railway in Ontario;
- (g) that operates, leases or hires sleeping, parlour or dining cars run or used in Ontario;
- (h) that was incorporated without share capital; 1939, c. 10, s. 12 (5), cls. (c-g).
- (i) that is organized and operated on a co-operative basis and
 - (i) that markets the products of its members or shareholders under the obligation to pay to them the proceeds from the sales on the basis of quantity and quality, less a reasonable amount for expenses and reserves, or
 - (ii) that purchases supplies and equipment for the use of its members or shareholders under the obligation to turn such supplies and equipment over to them at cost, plus a reasonable amount for expenses and reserves, or
 - (iii) that markets the products of, or purchases supplies and equipment for the use of persons other than the members or shareholders, provided that the value thereof does not exceed 20 per cent of the value of products, supplies and equipment marketed or purchased for its members or shareholders, or
 - (iv) that is a credit union. 1941, c. 15, s. 4 (4).

(6) Every incorporated company that has a paid-up capital of less than \$100,000 shall, for every fiscal year of the company in lieu of the tax imposed under subsection 1, pay a tax of one-twentieth of one per cent, calculated on the paid-up capital, for each office or place of business in Ontario, provided that in no case shall the combined taxes imposed under sections 10 and 12 be less than \$20. 1939, c. 10, s. 12 (6). Reduction
in tax.

(7) Every incorporated company,

Tax payable
by certain
companies.

(a) that is engaged in mining, the profits of which during the fiscal year are insufficient to be assessed for a tax under *The Mining Tax Act* and that does not hold as assets investments in the shares, bonds and obligations of other companies and governments, municipal and school corporations having a cost value of more than \$40,000;

Rev. Stat.,
c. 237.

(b) the charter of which has not been surrendered and the nominal head office of which is designated as being in Ontario and that in the opinion of the Treasurer has not commenced to do business or has ceased to do business and is entirely without assets,

shall for every fiscal year of the company, in lieu of the tax imposed under subsections 1 and 6, pay a tax of \$20. 1939, c. 10, s. 12 (7); 1947, c. 19, s. 2.

(8) Every incorporated company,

Idem.

(a) that was incorporated for religious, charitable, philanthropic, social or educational purposes or for the purpose of drainage, agriculture or colonization in Ontario and no part of the income of which inures to the personal profit of or is paid or payable to any shareholder therein; or

(b) that was incorporated to operate clubs, societies and associations for social welfare, civic improvement, pleasure, recreation or other non-profitable purposes, no part of the income of which inures to the personal profit of or is paid or payable to any shareholder therein; or

(c) that owns, operates or uses a telephone line or part thereof in Ontario and that has a paid-up capital of less than \$100,000,

shall for every fiscal year of the company, in lieu of the tax imposed under subsections 1, 6 and 7, pay a tax of

\$ 5, where the paid-up capital is less than \$20,000;

\$10, where the paid-up capital is \$20,000 or over and less than \$40,000;

\$15, where the paid-up capital is \$40,000 or over and less than \$60,000;

\$25, where the paid-up capital is \$60,000 or over and less than \$80,000;

\$50, where the paid-up capital is \$80,000 or more. 1939, c. 10, s. 12 (8); 1941, c. 15, s. 4 (5).

Hotels
operated by
railway.

13. In addition to the taxes imposed under sections 5 and 11, every incorporated company that owns, operates or uses a railway and that also owns, operates or uses one or more hotels in Ontario, shall for every fiscal year of the company pay a tax of \$50 for each hotel owned, operated or used in Ontario. 1939, c. 10, s. 13.

Tax on net
income.

14.—(1) In addition to the taxes imposed under sections 10 and 12, and save as in this section otherwise provided, every incorporated company that has its head or other office in Ontario, or that holds assets in Ontario, or that transacts business in Ontario, shall for every fiscal year of the company pay a tax of seven per cent calculated on the net income of the company. 1939, c. 10, s. 14 (1); 1947, c. 19, s. 3 (1).

Interpre-
tation.

(2) In this section, "income" refers to the income earned during the fiscal year of the company and means the net profit or gain, whether ascertained as being a fixed amount, or unascertained as being fees or emoluments, or as being profits from a trade or commercial or financial or other business, directly or indirectly received by it from any trade, manufacture or business, as the case may be, whether derived from sources in Ontario or elsewhere; and includes the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment, and, whether such gains or profits are divided or distributed or not, and also the annual profit or gain from any other source including,

- (a) the income from but not the value of property acquired by gift, bequest, devise or descent;
- (b) the income from but not the proceeds of life insurance policies paid upon the death of the person insured, or payments made or credited to the insured on life

insurance endowment or annuity contracts upon the maturity of the term mentioned in the contract or upon surrender of the contract;

- (c) personal and living expenses that form part of the profit, gain or remuneration of the company;
- (d) rents, royalties, annuities or other like periodical receipts that depend upon the production or use of any real or personal property, notwithstanding that they are payable on account of the use or sale of any such property; and
- (e) annuities or annual payments received under any will or trust irrespective of the date on which the will or trust became effective whether or not the annuities or annual payments are paid in whole or in part out of capital funds of the estate or trust and whether or not they are received at intervals separated by periods of a year or by longer or shorter periods. 1939, c. 10, s. 14 (2).

(3) The tax imposed under this section shall not be imposed on any incorporated company,

Companies not liable to tax on net income,

- (a) that was incorporated for religious, charitable, educational or agricultural purposes and no part of the income of which is paid or payable to or inures to the personal profit of any shareholder thereof; religious, charitable, etc., companies,
- (b) that was incorporated without share capital; companies without share capital;
- (c) that was incorporated to operate clubs, societies or associations for social welfare, civic improvement, pleasure, recreation or other non-profitable purposes, no part of the income of which is paid or payable to or inures to the benefit of any shareholder thereof; companies operating community clubs;
- (d) the business operations of which are of an industrial, mining, commercial, public utility or public service nature, and are carried on entirely outside of Ontario, either directly or through subsidiary or affiliated companies, and the assets of which, except securities acquired by the investment of accumulated income and such bank deposits as may be held in Ontario, are situated entirely outside of Ontario, including wholly owned subsidiary companies that are engaged solely in the prosecution outside of Ontario of the business of the parent company; business and assets situated abroad;

Idem;

- (e) the business operations of which are of an investment or financial nature carried on entirely outside of Ontario, and the shares of which have been offered for public subscription or are listed on any recognized stock exchange in Ontario or elsewhere, and the assets of which except such bank deposits as may be held in Ontario and except shares of other companies conforming to the requirements of this clause or clauses, are situated entirely outside of Ontario; provided that the shares, bonds and obligations of any company incorporated under the laws of Canada with statutory head office in Ontario or under the laws of Ontario shall for the purposes of this clause be deemed to be assets in Ontario notwithstanding that they may be or have been transferred on any register outside of Ontario;

co-operative
companies;

- (f) that is organized and operated on a co-operative basis and,

(i) that markets the products of its members or shareholders under the obligation to pay to them the proceeds from the sales on the basis of quantity and quality, less a reasonable amount for expenses and reserves, or

(ii) that purchases supplies and equipment for the use of its members or shareholders under the obligation to turn such supplies and equipment over to them at cost, plus a reasonable amount for expenses and reserves, or

(iii) that markets the products of, or purchases supplies and equipment for the use of persons other than its members or shareholders, provided that the value thereof does not exceed 20 per cent of the value of products, supplies and equipment marketed or purchased for its members or shareholders, or

(iv) that is a credit union;

companies
financing
co-operative
companies;

- (g) that is organized for the purpose of financing the operations of and is owned or controlled by any other company that is not liable to taxation under clause f;

transporta-
tion com-
panies oper-
ating outside
of Ontario;

- (h) that is engaged in the business of transporting passengers or freight or both, the head office and entire transportation system of which is situated outside of Ontario; 1939, c. 10, s. 14 (3), cls. (a-g).

- (i) that pays taxes under this Act as a bank, insurance company, railway company, express company, telegraph company, or car company, provided that a company that operates a railway and derives income from the operation of one or more hotels shall be taxable as provided by section 15; 1939, c. 10, s. 14 (3), cl. (h); 1941, c. 15, s. 5 (2). banks, insurance companies, railways, etc.;
- (j) that is a personal corporation as defined in *The Income Tax Act* (Ontario), being chapter 25 of *The Revised Statutes of Ontario, 1937*; 1939, c. 10, s. 14 (3), cl. (i). personal corporations;
- (k) that is a mutual insurance company insuring agricultural and other non-hazardous risks on the premium note plan, whose sole business is carried on in Ontario, that is a fraternal society or mutual benefit society as defined in *The Insurance Act*, or that is a pension fund or employees' mutual benefit society incorporated under or subject to *The Companies Act*; 1941, c. 15, s. 5 (1, 2). mutual insurance companies, etc.;
Rev. Stat., cc. 183, 59.
- (l) (i) the property of which, throughout the fiscal year, consists, to the extent of 80 per cent or more, of shares, bonds, marketable securities or cash, investment companies.
- (ii) the gross income of which, throughout the fiscal year, is, to the extent of not less than 95 per cent, derived from investments mentioned in subclause i,
- (iii) the property of which, throughout the fiscal year, consists, to the extent of not more than 10 per cent thereof, of shares, bonds, or securities of any one company or debtor other than His Majesty in right of Canada, or of any province or municipality in Canada,
- (iv) the shares of which are held, throughout the fiscal year by 50 or more persons of whom none holds more than 25 per cent of the whole capital stock thereof, and
- (v) the net income of which for the fiscal year, is distributed to the shareholders within 120 days after the close of the fiscal year to the extent of 85 per cent thereof or more, provided that the term "net income" as used in

this subclause means the income that would be taxable under this section but for this c'ause, plus income that would be exempt from tax under this section, minus taxes paid to other governments and minus dividends and interest received in the form of shares, bonds or other securities that have not been sold before the end of the fiscal year. 1949, c. 18, s. 4 (1).

Exemptions
and
deductions.

(4) "Income" as hereinbefore defined is subject to the following exemptions and deductions:

Depreciation
and
exhaustion.

(a) Such reasonable amount as the Treasurer in his absolute discretion may allow for depreciation, and the Treasurer in determining the income derived from oil and gas wells and timber limits shall make such an allowance for the exhaustion of the oil and gas wells and timber limits as he may deem just and fair; and in the case of leases of oil and gas wells and timber limits, the lessor and lessee shall each be entitled to deduct a part of the allowance for exhaustion as they agree and if the lessor and the lessee do not agree, the Treasurer may apportion the deduction between them and his determination shall be final. 1939, c. 10, s. 14 (4), cl. (a); 1947, c. 19, s. 3 (2).

Interest on
borrowed
capital.

(b) Such reasonable rate of interest on borrowed capital used in the business as the Treasurer in his absolute discretion may allow notwithstanding the actual rate of interest payable by the company, but to the extent that the rate of interest payable by the company is in excess of the amount allowed by the Treasurer, it shall not be allowed as a deduction and the rate of interest allowed shall not in any case exceed the rate stipulated for in the bond, debenture, mortgage, note, agreement or other similar document, whether with or without security, by virtue of which the interest is payable.

Donations
to charity.

(c) Not more than 10 per cent of the net taxable income of the company that has been actually paid by way of donation within its fiscal year to, and receipted for as such by, any charitable organization in Canada operated exclusively as such and not operated for the benefit or private gain or profit of any member or shareholder thereof or other person. 1939, c. 10, s. 14 (4), cls. (b, c).

- (d) An amount not exceeding \$900 paid by the company ^{Contributions to pension funds.} to or under an approved superannuation fund or plan in respect of services rendered during the fiscal year by each employee, officer or director of the company. 1950, c. 12, s. 1 (1).
- (e) Dividends received by the company from another ^{Dividends.} company. 1947, c. 19, s. 3 (3), *part*.
- (f) The amount of business losses sustained by the ^{Business losses of new companies.} company, if its head office is in Ontario, from the date of its incorporation to the commencement of the first fiscal year during which it earns a net income, which for the purposes of this clause means the amount that results from applying the provisions of this section respecting the computation of the net income, *mutatis mutandis*, but excluding from the computation the exemptions provided by clauses *f*, *g* and *j* of this subsection, provided that,
- (i) no amount is deductible in respect of the losses of the company sustained as a result of transactions between the company and persons with whom it was not dealing at arms-length,
 - (ii) the amount of such business losses is deductible only to the extent that it exceeds the aggregate of the amounts previously deductible in respect of those losses under this section,
 - (iii) no amount is deductible in respect of the loss of any fiscal year until the deductible losses of previous fiscal years have been deducted,
 - (iv) no amount is deductible in respect of losses from the net income of any fiscal year except to the extent of the lesser of,
 - (A) the net income of the company for the fiscal year from the business in which the loss was sustained, or
 - (B) the net income of the company for the fiscal year, and
 - (v) no amount is deductible in respect of losses sustained by the company during a fiscal year

that ended in the calendar year 1948 or during any previous fiscal year. 1949, c. 18, s. 4 (2).

Investment
income of
extra-
provincial
corporations.

- (g) That part of the income of the company, if its head office is outside of Ontario, derived as interest on bonds and obligations of other companies and of governments, municipal and school corporations and as dividends from other companies. 1939, c. 10, s. 14 (4), cl. (g).

Patriotic
contribu-
tions.

- (h) The amount, not exceeding 10 per cent of the net taxable income of the company, that has been actually paid by way of contribution within its fiscal year to, and receipted for as such by, any patriotic organization or institution in Canada that has the written approval of the Secretary of State (Canada). 1939 (2nd Sess.), c. 2, s. 1.

Mining
profits.

- (i) The amount of the income earned during the fiscal year by the company, if it is engaged in mining, that is equal to the amount of mining profits earned during such fiscal year for which the company is assessed for a tax under section 4 of *The Mining Tax Act*, provided that if such fiscal year does not coincide with the calendar year during which the profits assessed under *The Mining Tax Act* are earned, such amount shall be the total of,

Rev. Stat.,
c. 237.

- (i) the amount of mining profits earned during the calendar year that ends during such fiscal year for which the company is assessed for a tax under section 4 of *The Mining Tax Act*, and

Rev. Stat.,
c. 237.

- (ii) the amount of mining profits earned during the period commencing on the 1st day of January following the close of such calendar year and ending on the last day of such fiscal year for which the company will be assessable for a tax under section 4 of *The Mining Tax Act*,

reduced by,

- (iii) the amount of mining profits earned during the period commencing on the 1st day of January of the calendar year that ends within such fiscal year and ending on the last day of the fiscal year previous to such fiscal

year for which the company is assessed for a tax under section 4 of *The Mining Tax Act*, 1947, c. 19, s. 3 (4).

- (j) An amount equal to the aggregate of the exploration Exploration for oil and gas. expenses, including all geological and geophysical expenses, or such lesser amount as the Treasurer in his absolute discretion may allow, incurred during the fiscal year of the company with respect to oil wells and natural gas wells in Canada, if the company was incorporated for the purpose of exploring for oil wells and natural gas wells in Canada.
- (k) An amount equal to the aggregate of the drilling Drilling for oil and gas. expenses, or such lesser amount as the Treasurer in his absolute discretion may allow, incurred by the company with respect to the spudding in or deepening of an oil well or a natural gas well in Canada, if the company was incorporated for the purpose of drilling for oil or natural gas, or the production, refining or marketing of petroleum or petroleum products or of natural gas, provided that no such deduction shall be allowed until such well is abandoned or becomes productive, and
- (i) where the well is abandoned the amount so expended, or such lesser amount as the Treasurer in his absolute discretion may allow, shall be deducted during the fiscal year of the company during which such well is abandoned, and
- (ii) where the well becomes productive the amount so expended, or such lesser amount as the Treasurer in his absolute discretion may allow, shall be deducted during the fiscal year of the company during which the well becomes productive and subsequent fiscal years only as and to the extent that the company charges portions of such amount in its accounts as amortization of such well.
- (l) An amount equal to the aggregate of the prospecting Exploration for minerals. and exploration expenses, or such lesser amount as the Treasurer in his absolute discretion may allow, incurred during the fiscal year of the company in searching for minerals in Canada if the principal business of the company is the mining of or searching for minerals, and in this clause the word "minerals"

does not include diatomaceous earth, limestone, marl, peat or building stone, or stone for ornamental or decorative purposes or non-auriferous sand or gravel. 1948, c. 18, s. 3 (1), *part.*

Develop-
ment of
mines.

Rev. Stat.,
c. 237.

(m) An amount equal to the aggregate of the development expenses, or such lesser amount as the Treasurer in his absolute discretion may allow, incurred by the company after the commencement of its fiscal year ending in the calendar year 1949 with respect to the development in Canada of a mine as defined in *The Mining Tax Act*, if the principal business of the company is the mining of or searching for minerals, provided that no such deduction shall be allowed until the mine is abandoned or becomes productive, and

(i) where the mine is abandoned, the amount so expended, or such lesser amount as the Treasurer in his absolute discretion may allow, shall be deducted during the fiscal year of the company during which the mine is abandoned, and

(ii) where the mine becomes productive, the amount so expended, or such lesser amount as the Treasurer in his absolute discretion may allow, shall be deducted during the fiscal year of the company during which the mine becomes productive and subsequent fiscal years only as and to the extent that the company charges portions of such amount in its accounts as amortization of the mine. 1949, c. 18, s. 4 (3).

Logging
profits.

Rev. Stat.,
c. 216.

(n) An amount equal to the excess over \$10,000 of the income of the company derived from logging operations in Ontario as defined in section 3 of *The Logging Tax Act*, such amount to be deducted from income of the fiscal year of the company for which tax calculated on such amount is payable under that Act. 1950, c. 12, s. 1 (2).

Deductions
not allowed,

(5) In computing the amount of income to be assessed, a deduction shall not be allowed in respect of,

expenses
not laid out
to earn
income;

(a) any disbursement or expense not wholly, exclusively and necessarily laid out or expended for the purpose of earning income;

- (b) any outlay, loss or replacement of capital or any payment on account of capital or any depreciation, depletion or obsolescence, except as otherwise provided in this Act; capital outlay or losses, etc.;
- (c) the annual value of property, real or personal, except rent actually paid for the use of such property, used in connection with the business of the company to earn income; annual value of property;
- (d) amounts transferred or credited to a reserve, contingent account or sinking fund, except such an amount for bad debts as the Treasurer may allow and except as otherwise provided in this Act; reserves, contingent accounts and sinking funds;
- (e) carrying charges or expenses of unproductive property or assets not acquired for the purposes of the trade or business of the company or of a liability not incurred in connection with the trade or business of the company; carrying charges;
- (f) carrying charges of property the income from which is exempt, except to the extent that such carrying charges exceed the exempt income; application of carrying charges;
- (g) any sums charged by any company or organization outside of Canada to a company incorporated under the laws of Canada or of any province of Canada in respect of management fees or services or for the right to use patents, processes or formulas presently known or yet to be discovered, or in connection with the letting or leasing of anything used in Canada, irrespective of whether a charge or price is agreed upon or otherwise, if the company or organization to which such sums are payable, or the company incorporated under the laws of Canada or of any province of Canada is controlled directly or indirectly by any company or group of companies or persons in or outside of Canada which are affiliated one with the other by the holding of shares or by agreements or otherwise, provided that a portion of such charges may be allowed as a deduction if the Treasurer is satisfied that the charges are reasonable for services actually rendered or the use of anything actually used in Canada; expenses payable to controlling company abroad;
- (h) the distribution of earnings by the company to holders of its income bonds or income debentures, provided that in cases where such income bonds or dividends on income bonds or income debentures;

income debentures have been issued or the income provisions thereof have been adopted since the close of the fiscal year of the company ending in 1930, in consequence of an adjustment of previously existing bonds or debentures bearing an unconditional fixed rate of interest, which adjustment, to the satisfaction of the Treasurer, was occasioned by financial difficulties of the debtor company or its predecessor and was intended to afford some relief to such debtor company or its predecessor, then the provisions of this clause shall not apply;

tax paid to
Dominion
of Canada;

- (i) the amount of tax paid on account of net income to the Dominion of Canada and to any other jurisdiction including Ontario; 1939, c. 10, s. 14 (5).

artificial
transactions;

- (j) the amount of any outlay or expense made or incurred in respect of a transaction or operation that, if allowed, would unduly or artificially reduce the income; or

limitation
regarding
exempt
income.

- (k) the amount of any outlay or expense to the extent that it may reasonably be regarded as having been made or incurred for the purpose of gaining or producing income that is exempt from tax under this section or in connection with property the income from which would be exempt under this section. 1949, c. 18, s. 4 (4).

Limitation
of certain
expenses
charged
against
income.

- (6) The Treasurer may disallow as an expense the whole or any portion of any salary, bonus, commission, director's fee or other charge that in his opinion is in excess of what is reasonable for the services performed. 1939, c. 10, s. 14 (6).

Inadequate
considera-
tions.

- (7) Where a company purchases anything from a person with whom it is not dealing at arms-length at a price in excess of the fair market value, the fair market value thereof shall, for the purpose of computing the income of the company, be deemed to have been paid or to be payable therefor.

Idem.

- (8) Where a company sells anything to a person with whom it is not dealing at arms-length at a price less than the fair market value, the fair market value thereof shall, for the purpose of computing the income of the company, be deemed to have been received or to be receivable therefor.

Idem.

- (9) Where a company pays or agrees to pay⁵ to the person with whom it is not dealing at arms-length as price, rental, royalty or other payment for use or reproduction of any

property an amount computed at a rate higher than that at which similar payments by other persons in the same kind of business are computed, an amount computed at the rate at which similar payments are made by such other persons shall, for the purpose of computing the income of the company, be deemed to have been the amount that is paid or is payable therefor.

(10) Where a company directly or indirectly distributes to ^{Idem.} its shareholders any of its property, either on winding-up or otherwise, for no consideration or for a consideration below the fair market value, if the sale thereof at the fair market value would have increased the income of the company for the fiscal year, it shall be deemed, for the purpose of determining the income of the company, to have sold the property during the fiscal year and to have received therefor the fair market value thereof. 1949, c. 18, s. 4 (5).

(11) Where a company has made a special payment or ^{Special contributions to pension funds.} payments in Canada on account of an employees' superannuation or pension fund or plan in respect of the past services of employees pursuant to a recommendation by a qualified actuary in whose opinion the resources of the fund or plan required to be augmented by the amount of one or more special payments to ensure that all the obligations of the fund or plan to the employees may be discharged in full and has made the payment or payments so that it is or they are irrevocably vested in or for the fund or plan and the amount of the payment or payments so recommended to be made is approved by the Treasurer, an amount shall be deducted from income of the fiscal year equal to the lesser of,

- (a) one-tenth of the whole amount so recommended to be paid; or
- (b) the amount by which the aggregate of the amounts so paid during all fiscal years ending with the fiscal year exceeds the aggregate of the amounts that were deductible under this subsection from income of the previous fiscal years of the company and of the amounts that, if this subsection had been in force with respect to fiscal years of companies ending in 1949 and previous fiscal years, would have been deductible from income of such fiscal years.

(12) In any case,

^{Idem.}

- (a) where an amount has been recommended to be paid by a company on account of an employees' super-

annuation or pension fund or plan in respect of the past services of employees and such amount has been approved by the Treasurer under subsection 11; and

- (b) where the company has made a special payment or payments on account thereof during the fiscal year of the company ending in 1949 and previous fiscal years; and
- (c) where the aggregate of the amounts that were deductible in respect thereof from income of such fiscal years of such company under clause *d* of subsection 4 of section 14 repealed by subsection 1 of section 1 of *The Corporations Tax Amendment Act, 1950* is less than the aggregate of the amounts that would have been deductible under subsection 11 if such subsection had been in force for such fiscal years,

the deficiency shall be deducted in five equal parts from the income of the fiscal years of the company ending in 1950 to 1954, and for the purpose of this subsection deductions from income of fiscal years of companies ending in 1941 to 1946 under clause *d* of subsection 4 of section 14 repealed by subsection 1 of section 1 of *The Corporations Tax Amendment Act, 1950* shall be deemed to have been made as though *The Corporations and Income Taxes Suspension Act, 1942* had not been in force. 1950, c. 12, s. 1 (3).

Deduction
from tax
on income.

(13) A company shall be entitled to deduct from the tax calculated upon net income that would otherwise be payable by it under this Act the amount of the tax calculated on net income that was paid or payable for the fiscal year for which tax under this Act is imposed to the government of any province, state or country outside of Ontario with the exception of the tax paid to the Dominion of Canada, provided that such deduction shall not at any time exceed, or in the case of any such company the head office of which is outside of Ontario shall neither be less than nor exceed, the amount of the tax that would otherwise be payable in respect of net income derived from sources in each such province, state or country, and provided that the net income derived from sources in each such province, state or country shall be determined in the following manner: 1939, c. 10, s. 14 (7), *part*; 1941, c. 15, s. 5 (4).

Ship trans-
portation
companies.

- (a) In the case of a company the business of which is that of ship transportation, the amount of net income

that shall be deemed to have been derived from sources in each such province, state or country shall be that portion of the total net income, exclusive of gross income from investments in the shares, bonds and obligations of other companies and of governments and municipalities, which the amount of the tonnage of each of its ships that operated during the fiscal year of the company and that touched at a port in such province, state or country multiplied by the number of times each such ship touched at a port in such province, state or country during such fiscal year plus the amount of tonnage of each of its ships that did not operate during such fiscal year and was held at a port in such province, state or country, bears to the total amount of the tonnage of its ships that operated during such fiscal year multiplied by the number of times each such ship called at any port during such fiscal year and of the tonnage of its ships that did not operate during such fiscal year.

- (b) In the case of a company the business of which is Other transportation companies. that of transporting passengers or freight or both by bus, truck or aircraft, the amount of net income that shall be deemed to have been derived from sources in each such province, state or country shall be that portion of the total net income, exclusive of gross income from investments in the shares, bonds and obligations of other companies and of governments and municipalities, which the number of miles travelled by its buses, trucks or aircraft during the fiscal year of the company in each such province, state or country bears to the total number of miles travelled by its buses, trucks or aircraft during such fiscal year. 1939, c. 10, s. 14 (7), cls. (a-b).
- (c) In the case of a company the business of which is Real estate and mining companies. the holding of real estate for sale or rent, or that merely holds assets, or that owns and operates international or interprovincial bridges or tunnels or both, or the operations of which in the opinion of the Treasurer tend to deplete the natural resources of Canada, the amount of the net income that shall be deemed to have been derived from sources in each such province, state or country shall be that portion of the total net income, exclusive of gross income

from investments in the shares, bonds and obligations of other companies and of governments, municipal and school corporations, which the book value of the fixed assets and the goods and supplies as shown by the inventories situated in each such province, state or country bear to the book value of the total fixed assets and the goods and supplies as shown by the inventories; provided that in the case of any such company, where the Treasurer is satisfied that the net income of the company earned in Ontario and earned in each such province, state or country outside of Ontario respectively is capable of accurate determination, the actual amounts thereof shall be determined in lieu of the aforesaid calculated amount.

Grain
companies.

- (d) In the case of a company the chief business of which is the operation of grain elevators, the amount of the net income that shall be deemed to have been derived from sources within each such province, state or country shall be that portion of the total net income, exclusive of gross income from investments in the shares, bonds and obligations of other companies and of governments, municipal and school corporations, which the number of bushels of grain received during the fiscal year in the elevators operated by the company in each such province, state or country bears to the number of bushels of grain received during the fiscal year in all the elevators operated by the company; provided that in the case of any such company, where the Treasurer is satisfied that the net income of the company earned in Ontario and earned in each such province, state or country outside of Ontario respectively is capable of accurate determination, the actual amounts thereof shall be determined in lieu of the aforesaid calculated amount.

Other
companies.

- (e) In the case of every other company, the amount of the net income that shall be deemed to have been derived from sources in each such province, state or country shall be that portion of the total net income, exclusive of gross income from investments in the shares, bonds and obligations of other companies and of governments, municipal and school corporations, which the gross sales made to or the gross revenue received from customers residing in each such province, state or country, exclusive of gross income from investments in the shares, bonds

and obligations of other companies and of governments and municipal and school corporations, bear to the total gross sales made or gross revenue received, exclusive of gross income from investments in the shares, bonds and obligations of other companies and of governments and municipal and school corporations; provided that in the case of any such company, where the Treasurer is satisfied that the net income of the company earned in Ontario and earned in each such province, state or country outside of Ontario respectively is capable of accurate determination, the actual amounts thereof shall be determined in lieu of the aforesaid calculated amount; and for the purpose of this clause the residence of a customer of a company shall be deemed to be, with respect to sales made to or gross revenue received from customers residing in Canada, in the province,

- (i) in which the goods sold by the company are received by the customer,
- (ii) in which the services sold by the company are performed for the customer, or
- (iii) in which the customer uses any property, invention, trade name or other thing from which the company derives its remaining gross revenue represented by rents, royalties or similar payments,

and with respect to sales made to or gross revenue received from customers residing outside of Canada, in the province,

- (iv) from which the order for the goods sold is filled by the company,
- (v) in which, by contract, the company receives payment for services performed outside of Canada, or
- (vi) in which, by contract, the company receives payment of its remaining gross revenue represented by rents, royalties or similar payments for the use outside of Canada of any property, invention, trade name or other thing,

unless the company is subject to taxation on net income in the state or country outside of Canada

where the customer actually resides, in which case the residence of the customer shall be deemed to be in such state or country.

Income from
foreign
investments.

- (f) In the case of a company that has its head office in Ontario, any part of the net income of which consists of dividends and interest from investments in the shares, bonds and obligations of other companies and of governments, municipal and school corporations the cost of which forms the basis for the deduction for investments allowed under clause *c* of subsection 4 of section 10, the amount of the net income derived from such sources that shall be deemed to have been earned in any such province, state or country shall be the amount of such dividends and interest paid by companies with head offices in such province, state or country or by the government of such province, state or country or by a municipal or school corporation situated therein. 1949, c. 18, s. 4 (6).

Evidence
required.

- (14) Any deduction provided by subsection 13 shall be allowed only if the company furnishes evidence satisfactory to the Treasurer of the amount of tax paid or payable during its fiscal year to the government of each such province, state or country in respect of net income. 1939, c. 10, s. 14 (8).

Railway
hotels,
tax on
income.

- 15.** In addition to the taxes imposed under sections 5, 11 and 13 every company that owns, operates or uses a railway and that also owns, operates or uses one or more hotels in Ontario shall pay a tax of seven per cent calculated on the net income derived from the operation of such hotel or hotels, and net income for the purposes of this section shall be determined in the manner provided by subsections 2, 4 and 5 of section 14 in so far as the definition of net income therein applies to the income from the operation of hotels in Ontario. 1939, c. 10, s. 15; 1947, c. 19, s. 4.

How tax
to be
determined.

- 16.** Unless otherwise provided in this Act, any tax imposed under this Act shall be determined on the amount of the paid-up capital stock, mileage or other subject in respect of which the amount of the tax is to be ascertained as such stock, mileage or other subject stood at the end of the fiscal year of the company for which the tax is imposed, provided that, in reference to the number of places of business, the number shall be the maximum number opened during the fiscal year, and provided further that in reference to gross premiums of insurance companies and the net income of incorporated companies the amount on which any tax imposed under this Act shall be calculated shall be the gross premiums received

or the net income earned during the fiscal year of the company for which the tax is imposed. 1939, c. 10, s. 16.

17.—(1) Every company on which a tax is imposed under this Act shall on or before the last day of the month that ends six months following the close of the fiscal year of the company, without notice or demand, and every company on which a tax is or is not imposed under this Act shall upon receipt of a notice or demand in writing from the Treasurer or from any officer of the Treasury Department authorized by the Treasurer to make such demand, deliver to the Treasurer such return as is required for the purposes of carrying out the provisions of this Act. 1939, c. 10, s. 17 (1); 1947, c. 19, s. 5; 1948, c. 18, s. 4 (1). Company to file annual return.

(2) The return shall be verified by a certificate certifying that the financial statements included in the return or attached thereto are in agreement with the books of the company, and such certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the company, and in the case of an extra-provincial company, by the manager or chief agent of the company in Ontario, or by such other person or persons connected with the company as the Treasurer may require. 1939, c. 10, s. 17 (2). Verification of returns.

18.—(1) When a company is in default in complying with subsection 1 of section 17, it shall be liable to a penalty of, Penalty for default.

(a) an amount equal to five per cent of the tax that was unpaid when the return was required to be filed, if the tax payable by the company for the fiscal year that was unpaid at that time was less than \$10,000; or

(b) \$500, if at the time the return was required to be filed, tax payable by the company equal to \$10,000 or more was unpaid. 1950, c. 12, s. 2 (1).

(2) When a company fails to complete the information required on the return to be delivered under subsection 1 of section 17, it shall be liable to a penalty of one per cent of the tax payable by it; provided that such penalty shall not in any case be less than \$1 nor more than \$20. 1939, c. 10, s. 18 (3); 1950, c. 12, s. 2 (2). Failure to complete return.

(3) Every person who makes any false statement in any return or in any information made or furnished to the Treasurer under this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more False statement.

than \$10,000 or to imprisonment for six months or both. 1939, c. 10, s. 18 (4).

Time for
making
return.

19. The Treasurer may enlarge the time for making any return before or after the time for making it. 1939, c. 10, s. 19.

Taxes,
when to
accrue.

20.—(1) The taxes imposed under this Act shall be deemed to be due on the last day of the fiscal year of the company for which such taxes are imposed.

Dates of
payment.

(2) Every company on which a tax is imposed under this Act shall pay,

(a) not later than the close of the fiscal year in respect of which the tax is payable, an amount equal to one-half of the tax as estimated by it on its income or other subject for the last preceding fiscal year or for the fiscal year in respect of which the tax is payable, at the rate applicable for the last-mentioned fiscal year;

(b) not later than the 15th day of the third month following the month in which the fiscal year in respect of which the tax is payable closed, an amount equal to the balance of the tax as so estimated; and

(c) at the time of making the return as required by subsection 1 of section 17, the balance, if any, of the tax payable as estimated by the company in the return. 1947, c. 19, s. 6, *part*.

Interest on
unpaid tax.

(3) Where the amount paid on account of tax payable by a company for a fiscal year before the expiration of the time allowed for filing the return of the company under section 17 is less than the amount of tax payable for the fiscal year, the company liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return to the day of payment at the rate of six per cent per annum.

Idem.

(4) Where a company being required by subsection 2 to pay a part or instalment of tax has failed to pay all or any part thereof as required, the company, in addition to the interest payable under subsection 3, shall pay interest on the amount the company failed to pay at six per cent per annum from the day on or before which the company was required to make the payment to the day of payment or the beginning of the period in respect of which the company becomes liable to pay interest thereon under subsection 3, whichever is earlier.

(5) For the purposes of subsection 4, the company shall ^{Idem.} be deemed to have been liable to pay a part or instalment under subsection 2 computed by reference to the tax payable for,

(a) the last preceding fiscal year; or

(b) the fiscal year in respect of which the tax is payable,

whichever is lesser.

(6) No interest under this section upon the amount by ^{Limitation on interest period.} which the unpaid taxes exceed the amount of taxes estimated to be payable in the return required to be filed under section 17 is payable in respect of the period beginning 20 months after the expiration of the time for filing the return or 20 months after the time the return was in fact filed, whichever was later, and ending 30 days from the date of the mailing of the notice of assessment. 1950, c. 12, s. 3.

21.—(1) The returns received by the Treasurer shall be ^{Returns examined.} checked and examined with all possible despatch. 1939, c. 10, s. 21 (1).

(2) If the Treasurer, in order to make an assessment or ^{Demand for additional information.} for any other purpose, desires any information or additional information, or a return from a company that has not made a return or a complete or sufficient return, he may, by registered letter, demand from the company, or from the president, manager, secretary, or any director, agent or representative thereof such information, additional information or return and the company, president, manager, secretary or any director, agent or representative upon whom such a demand is made shall deliver to the Treasurer such information, additional information or return within 30 days of the mailing of the registered letter. 1939, c. 10, s. 21 (2); 1941, c. 15, s. 6 (1).

(3) The Treasurer may, by registered letter, require the ^{Production of letters, accounts, etc.} production, under oath or otherwise, by a company or the president, manager, secretary, or any director, agent or representative thereof, or by any person, partnership, syndicate, trust or company holding or paying or liable to pay any portion of the income of the company, or by any partner, agent or official of any such person, partnership, syndicate, trust or company, of any letters, accounts, invoices, statements or other documents. 1939, c. 10, s. 21 (3); 1941, c. 15, s. 6 (2).

(4) The Treasurer may, by registered letter, require ^{Production of evidence to prove tax payable by another company.} production, under oath or otherwise, by any person, partnership, syndicate, trust or company, or by his or its agent or officer,

of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or company or of his or its agent, for the purpose of determining what tax, if any, is payable by any company and production shall be made within 30 days of the mailing of the registered letter.

Books of
account to
be kept.

(5) If a company fails or refuses to keep adequate books or accounts for the purpose of ascertaining the amount of the tax payable under this Act, the Treasurer may require the company to keep such records and accounts as he may prescribe.

Penalty.

(6) For every default in complying with subsections 2 to 5 the company or persons, or both, in default shall be liable jointly and severally to a penalty of \$25 for each day during which the default continues.

Compliance
of Treasurer
to be proved
by affidavit.

(7) For the purpose of any proceedings taken under this Act, the facts necessary to establish compliance on the part of the Treasurer with this section as well as the failure of any person, partnership, syndicate, trust, incorporated company or other company to comply with the requirements of this section shall be sufficiently proven in any court of law by affidavit of the Treasurer or of any officer of the Treasury Department.

Inquiry as
to paid-up
capital,
income, etc.

(8) Any officer authorized by the Treasurer may make such inquiry as he may deem necessary to ascertain the paid-up capital, net income or other subject of any company, and for the purposes of such inquiry, such officer shall have all the powers and authority that may be conferred upon a commissioner appointed under *The Public Inquiries Act*.

Rev. Stat.,
c. 308.

Treasurer
not bound
by returns.

(9) No return or information supplied by or on behalf of any company shall be binding on the Treasurer, and notwithstanding any return or information, or in the absence of any return or information, the Treasurer may determine the amount of the tax to be paid by any company. 1939, c. 10, s. 21 (4-9).

Notice of
assessment.

(10) After examination of the return of a company, the Treasurer shall send a notice of assessment to the company verifying or altering the amount of tax as estimated in its return, and any additional tax found to be due over the estimated amount shall be paid within one month from the date of the mailing of the notice of assessment. 1939, c. 10, s. 21 (10); 1950, c. 12, s. 4 (1).

Refund.

(11) The Treasurer may refund at, before or after issue of the notice of assessment, any overpayment of tax, interest

or penalties made by the company, provided application in writing is made therefor by the company within six months of the date of the payment of the tax or the date on which the notice of assessment was issued, and any refund of tax made under this subsection may be paid with interest at the rate of three per cent per annum thereon calculated from six months after the time the tax first became overpaid, provided that no interest shall be paid where the refund of tax is less than \$50.

(12) Notwithstanding any prior assessment or if no assessment has been made, the company shall continue to be liable for any tax imposed by this Act and to be assessed therefor and the Treasurer may at any time assess, re-assess or make additional assessments upon any company for tax and penalties. 1939, c. 10, s. 21 (12, 13). Continuation of liability for tax.

22.—(1) Any company that objects to the amount at which it is assessed, or that considers that it is not liable to taxation under this Act, may by itself or by its solicitor, within one month after the date of the mailing of the notice of assessment provided for in subsection 10 of section 21, serve a notice of appeal on the Treasurer. Notice for appeal.

(2) The notice of appeal shall be served by mailing it by registered post addressed to the Treasurer. Notice in writing.

(3) The notice of appeal shall follow Form 1 to this Act as closely as may be and shall set out clearly the reasons for appeal and all facts relative thereto. 1939, c. 10, s. 22. Form of notice of appeal.

23. Upon receipt of the notice of appeal the Treasurer shall duly consider it, affirm or amend the assessment appealed against, and notify the appellant company of his decision by registered post. 1939, c. 10, s. 23. Decision to affirm or amend assessment.

24.—(1) If the appellant company, after receipt of the decision, is dissatisfied therewith, it may, within one month from the date of the mailing of the decision, mail to the Treasurer by registered post, a notice of dissatisfaction. Notice of dissatisfaction respecting the decision.

(2) The notice of dissatisfaction shall follow Form 2 to this Act as closely as may be and shall state that the appellant company desires that its appeal be set down for trial. Form of notice of dissatisfaction.

(3) The appellant company shall forward with the notice of dissatisfaction a final statement of such further facts, statutory provisions and reasons that it intends to submit to the court in support of the appeal as were not included in the Statement with notice.

notice of appeal, or in the alternative, a recapitulation of all facts, statutory provisions and reasons included in the notice of appeal, together with such further facts, provisions and reasons as the appellant intends to submit to the court in support of the appeal. 1939, c. 10, s. 24.

Security.

25.—(1) The appellant company shall thereupon give security in the sum of \$400 or such other sum as the Treasurer may require for the costs of the appeal in a form satisfactory to the Treasurer; provided that in lieu of other security the appellant company may pay into court the sum of \$200 or such other sum as the Treasurer may require in which case the company shall, when paying such sum in, state the purpose for which it is paid in and shall forthwith serve a notice on the Treasurer specifying the fact and purpose of the payment.

Proceedings
voided.

(2) Unless such security is furnished by the appellant company within one month after the mailing of the notice of dissatisfaction, the appeal and all proceedings thereunder shall be null and void. 1939, c. 10, s. 25.

Decision
upon receipt
of statement
of facts.

26. Upon receipt of the notice of dissatisfaction and statement of facts, a reply thereto shall be mailed by registered post admitting or denying the facts alleged and confirming or amending the assessment or any amended, additional or subsequent assessment. 1939, c. 10, s. 26.

Copy of
documents
to be filed.

27.—(1) Within two months from the date of the mailing of the reply, the Treasurer shall cause to be transmitted to the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the appellant company has its head or other office or transacts business, to be filed in the court, copies of,

- (a) the corporations tax return, if any, of the appellant company for the fiscal year under review;
- (b) the notice of assessment appealed;
- (c) the notice of appeal;
- (d) the decision;
- (e) the notice of dissatisfaction;
- (f) the reply;
- (g) all other documents and papers relative to the assessment under appeal.

(2) The matter shall thereupon be deemed to be an action ^{Matter deemed action.} in the court and shall be set down for trial forthwith by the Registrar or local registrar, as the case may be, and thereafter shall be proceeded with in the same manner as an action commenced in the Court; provided that the court or a judge may at any time before the commencement of the trial make such order relating to the delivery of pleadings as may be deemed proper.

(3) The practice and procedure of the Supreme Court, ^{Supreme Court practice to govern.} including the right of appeal and the practice and procedure relating to appeals, shall apply to every such action, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. 1939, c. 10, s. 27.

28. All subsequent proceedings shall be entitled:

^{Title of cause.}

In re *The Corporations Tax Act* and the appeal
of.....of.....in the
Province of.....

and notice and copies of all further proceedings shall be served on the Treasurer. 1939, c. 10, s. 28.

29.—(1) After an appeal has been set down for trial or ^{Conditional limitation of evidence.} hearing as above provided, any fact or statutory provision not set out in the notice of appeal or notice of dissatisfaction may be pleaded or referred to in such manner and upon such terms as the court or a judge thereof may direct.

(2) The court may refer the matter back to the Treasurer ^{Reference back to Treasurer.} for further consideration. 1939, c. 10, s. 29.

30. Subject to this Act, the Supreme Court shall have ^{Jurisdiction of court.} exclusive jurisdiction to hear and determine all questions that may rise in connection with any assessment made under this Act and in delivering judgment may make any order as to payment of any tax, interest or penalty or as to costs as to the court may seem right and proper. 1939, c. 10, s. 30.

31. An assessment shall not be varied or disallowed because ^{Irregularities not to affect validity of assessment.} of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision up to the date of the issuing of the notice of assessment. 1939, c. 10, s. 31.

32. Proceedings before the Supreme Court under this Act ^{Proceedings in camera.} shall be held *in camera* upon request made to the court by any party to the proceedings. 1939, c. 10, s. 32.

Right of
appeal
barred.

33. If a notice of appeal is not served or a notice of dissatisfaction is not mailed within the time limited therefor, the right of the company assessed to appeal shall cease and the assessment shall be valid and binding notwithstanding any error, defect or omission therein or in any proceedings required by this Act. 1939, c. 10, s. 33.

Recovery of
penalty
or tax.

34.—(1) Upon default of payment by a company of any tax or penalty, or both, imposed upon the company under this Act,

- (a) the Treasurer may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Treasurer or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury;
- (b) the Treasurer may issue a warrant directed to the sheriff of any county or district in which any property of the company is located or situate, for the amount of the tax, interest and penalty, or any of them, owing by the company, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant shall have the same force and effect as a writ of execution issued out of the Supreme Court;
- (c) the Treasurer or any officer authorized by him may enter upon the premises of the company or any other place in Ontario where the books or records of the company or any part of them are kept and make such investigation and examination as he may deem necessary, and may seize all or any of such books and records and may, by notice in writing, require any person, partnership, syndicate, trust or corporation who may be indebted to the company to pay such indebtedness to the Treasurer.

Penalties
payable to
Treasurer.

Rev. Stat.,
c. 379.

(2) Except where otherwise specifically provided, the penalties imposed under this Act shall be recoverable under *The Summary Convictions Act* and shall be payable to the Treasurer.

Remedies
for recovery
of tax and
penalty.

(3) The use of any of the remedies provided by this section shall not be a bar to or affect any of the other remedies therein provided, and the remedies provided by this Act for the

recovery and enforcement of payment of any tax or penalty, or both, imposed under this Act shall be in addition to any other remedies existing by law, and no action or other proceeding taken shall in any way prejudice, limit or affect any lien, charge or priority existing under this Act or otherwise. 1939, c. 10, s. 34.

35.—(1) A notice under clause *c* of subsection 1 of section 34 may be served personally or by registered post addressed to such person, partnership, syndicate, trust or corporation at the address indicated in the books or records of the company, and the receipt of payment of the amount of the indebtedness by the Treasurer shall constitute a good and sufficient discharge of the liability of the person, partnership, syndicate, trust or corporation to the company to the extent of the amount indicated in the receipt. Manner of serving notice.

(2) Any person, partnership, syndicate, trust or corporation discharging any liability to a company owing taxes, penalties or both under this Act after the service of the notice referred to in subsection 1 shall be personally liable to the Treasurer to the extent of the amount of the liability discharged between such person, partnership, syndicate, trust or corporation and the company or to the extent of the amount of taxes, interest and penalties owing under this Act by the company whichever is the lesser amount and the Treasurer shall have the same remedies for the recovery of such amount from such person, partnership, syndicate, trust or corporation as he has for the recovery from a company of a tax or penalty imposed upon it under this Act. 1939, c. 10, s. 35. Liability of debtor.

36.—(1) Every tax and penalty imposed under this Act shall be a first lien and charge upon the property in Ontario of the company liable to pay such tax or penalty or both, provided that such lien and charge shall not apply to any mine as defined in *The Mining Tax Act* until the company owning the mine has been assessed for a tax on mining profits under *The Mining Tax Act*. 1939, c. 10, s. 36; 1948, c. 18, s. 5. Priority of tax.

(2) Every tax and penalty imposed under this Act on a company that owns, operates or uses a railway shall be a special lien on any property, real or personal, in which the company has any interest, legal or equitable (other than as lessee or under any agreement for running rights or operating rights) in priority to every claim, privilege, lien or encumbrance, whenever created, of every person, and the lien and its priority shall not be lost or impaired by any neglect, omission or error of any Minister, officer, servant or agent of the Crown, or by want of registration. 1940, c. 6, s. 4. Tax and penalty to be lien on property.

Notice to be given Treasurer of sale of company's capital assets.

37.—(1) Where a company has failed to pay taxes and penalties imposed under this Act for a period of more than three years from the date of the mailing of the notice of assessment provided by subsection 10 of section 21, no person shall sell any capital assets of the company unless he has given written notice by registered post to the Treasurer not less than 10 days before the date of the sale.

Penalty.

(2) Every person who violates the provisions of subsection 1 shall be liable to a penalty of not less than an amount equal to the amount of such taxes and penalties in default, and such penalty shall be recoverable by action in any court in which a debt or money demand of a similar amount may be collected. 1939, c. 10, s. 37.

Compromising disputes as to liability for taxes.

38. If any doubt or dispute arises as to the liability of a company to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed under this Act, the Treasurer may accept such amount as he may deem proper, and if the tax demanded has been paid under protest he may refund the amount so paid or any part thereof. 1939, c. 10, s. 38.

Penalty.

39. Every person who, and every company that violates any of the provisions of this Act or the regulations for which no other penalty is provided, shall be guilty of an offence and liable to a penalty of not less than \$50 and not more than \$500. 1939, c. 10, s. 39.

Regulations.

40. The Lieutenant-Governor in Council may make regulations,

- (a) authorizing or requiring the Deputy Treasurer or any other officer of the Treasury Department to exercise any power or perform any duty conferred or imposed upon the Treasurer by this Act;
- (b) providing for the issuance of certificates as to the amount of taxes and penalties owing by any company under this Act and prescribing the fees payable therefor;
- (c) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1939, c. 10, s. 40; 1948, c. 18, s. 6.

Agreement between Treasurer and Minister.

41. Notwithstanding anything in this Act, upon the approval by the Lieutenant-Governor in Council of an agreement between the Treasurer and the Minister of National

Revenue (Canada) and subject to its provisions, that Minister and the Deputy Minister of National Revenue for Taxation (Canada) are hereby authorized to exercise in the place and stead, on behalf of or as agent for the Treasurer and Controller of Revenue for Ontario, such of the powers and duties imposed upon the Treasurer and the Controller of Revenue for Ontario respectively under this Act as may be specified in the agreement. 1939, c. 10, s. 41 (1).

42. The Lieutenant-Governor in Council may authorize the Treasurer to pay any expenses that may be incurred by the Minister in carrying out the provisions of this Act. 1939, c. 10, s. 41 (2). Expenses.

43.—(1) Notwithstanding anything in this Act, the Treasurer may, for the purpose of preventing duplication of taxation of any company, enter into an agreement with the treasurer or other officer of any other province of Canada who is authorized by an Act of such province to enter into such an agreement, providing for the remission, on a reciprocal basis, of taxes required to be paid by such company under this Act and under any Act of such other province imposing taxes of a similar nature. Agreements with other provinces.

(2) Every such agreement shall have the force of law when approved by the Lieutenant-Governor in Council and by any authority that is required to approve it under the provisions of the legislation of the other province. Approval of agreement.

(3) Any such agreement may be terminated by either party thereto giving notice in writing to the other party, and every such termination shall be effective in respect of the current fiscal year of the company and all subsequent fiscal years unless it is otherwise agreed between the parties. 1941, c. 15, s. 7. Termination of agreement.

44. Declarations or affidavits in connection with returns filed under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant-Governor in Council, but any person so specially authorized shall not charge any fee therefor. 1939, c. 10, s. 42. Declarations and affidavits.

45.—(1) No person employed in the service of His Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act. Secrecy.

Penalty.

(2) Every person who violates any provision of this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$200. 1939, c. 10, s. 43.

Distribution among municipalities of one-half the revenue from railway tax.

46.—(1) There shall be set apart from the Consolidated Revenue Fund on the 31st day of December in each year a sum equal to one-half the receipts of the Province during such year of taxes from railway companies under subsection 1 of section 5 after deducting therefrom the sum of \$30,000, and the sum so set apart shall, on the 31st day of December in each year, be credited to the cities, towns, villages and organized townships in Ontario in proportion to population as compared with the whole population of Ontario as shown by the last preceding census taken under the authority of the Parliament of Canada, and in the event of the population of any municipality being uncertain, owing to change of municipal boundaries, the Lieutenant-Governor in Council may determine the same for the purposes of this Act.

Fixing amounts.

(2) The Lieutenant-Governor in Council may fix the amount per head of the population to be so credited without allowing for fractions of a cent.

Debiting municipalities with cost of maintenance of patients.

Rev. Stat., c. 229.

(3) Against the amount so credited there shall be charged, as a contribution towards his maintenance, a sum amounting to 10 cents per patient per day for each patient belonging to the municipality maintained for the whole or any part of such year in any institution within the meaning of *The Mental Hospitals Act*, other than the Ontario Hospital, Woodstock, such charge to be made only in respect of patients on account of whose maintenance the Province is not in receipt from any source of \$1.50 per week or more.

Determining liability of municipality to contribute to maintenance of patients.

(4) All questions as to the liability of a municipal corporation to such charge shall be determined by an officer designated for that purpose by the Minister of Health, whose decision may at any time and from time to time be varied or cancelled by himself or by any other officer designated by the Minister of Health, and the certificate of the Minister of Health declaring the amount of such charge shall be accepted and acted upon by the provincial Auditor without further evidence as determining the amount to be deducted under subsection 3.

Payment of balance.

(5) The balance remaining at the credit of each municipal corporation after deducting such charge shall be paid forthwith by the Treasurer to the corporation.

(6) The name of every patient in respect of whom the charge is made shall be furnished annually to the municipal corporation but shall not be published in its accounts unless the council so directs. 1939, c. 10, s. 44.

Names of
patients to
be sent to
municipalities.

FORM 1

(Section 22 (3))

In re *The Corporations Tax Act*, and.....
 of the.....of.....
 in the Province of....., Appellant.

(Name of taxpayer)

(Address)

Notice of Appeal is hereby given from the assessment bearing date the.....day of....., 19....., wherein a tax in the sum of \$.....levied in respect of paid-up capital, net income or other subject for the fiscal year ended in 19.....

Then follow with,

1. Full statement of facts.
2. Full statement of reasons for appeal.

Dated this.....day of....., 19.....

(Signature)

1939, c. 10, Sched.

FORM 2

(Section 24 (2))

In re *The Corporations Tax Act* and the appeal of.....
 of the.....of.....
 in the Province of.....

(Name of taxpayer)

(Address)

The appellant company desires its appeal to be set down for trial.

Dated this.....day of....., 19.....

(Signature)

CHAPTER 73

The Costs of Distress Act

1. No person making distress for rent or for a penalty and no person employed in making the distress, or doing any act in the course of the distress, or for carrying the same into effect, shall levy, take or receive any costs in respect of the distress other than such as are prescribed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 122, s. 1 (1); 1941, c. 16, s. 1 (1).

Tariff of costs where sum demanded does not exceed \$80.

2. No costs shall be levied, taken or received for or in respect of exempted goods when they may not be lawfully sold, and when sold no greater sum in all than \$2 and actual and necessary payments for possession money shall be levied, taken or received for or in respect of costs and expenses of sale of such exempted goods. R.S.O. 1937, c. 122, s. 2.

Costs in respect of seizure of exempted goods.

3. No person making a seizure or sale of goods for default in payment of the principal money or interest secured by a chattel mortgage or for default in payment of any instalment of principal or interest, secured by any instrument under the terms of which the vendor retains the right to take possession of any chattel sold by him for default in payment of any instalment of principal or interest, shall levy, take or receive any greater or other fees or costs than those prescribed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 122, s. 3; 1941, c. 16, s. 2.

Tariff of costs under chattel mortgage.

4. No person shall make any charge for anything for which the Lieutenant-Governor in Council has prescribed a fee under this Act unless it has been actually done. R.S.O. 1937, c. 122, s. 4; 1941, c. 16, s. 3.

No charge for anything not done.

5. No person aggrieved by a seizure or sale of goods under a chattel mortgage or by a distress for rent or for default in payment of any instalment of principal or interest secured by any instrument under the terms of which the vendor retains the right to take possession of any chattel sold by him for default in payment of any instalment of principal or interest, shall be barred from any action or remedy which he would have had if this Act had not been passed. R.S.O. 1937, c. 122, s. 5.

Right of action not affected.

Furnishing
statement
of demand
and costs.

6.—(1) A person who makes a distress shall give a statement in writing of the demand, and of all the costs and expenses of the distress, signed by him, to the person on whose goods the distress is made, and a person who makes a seizure under a chattel mortgage or for default in payment of any instalment of principal or interest secured by any instrument under the terms of which the vendor retains the right to take possession of any chattel sold by him for default in payment of any instalment of principal or interest, shall give to the person in possession of the goods seized a statement in writing signed by him of the demand and of the costs charged in respect of the seizure and subsequent proceedings.

Taxation of
costs of
distress.

(2) The person whose goods are distrained or seized, or the person authorizing the distress or seizure, or any other person interested, upon giving two days' notice in writing, may have the costs and expenses of the bailiff or other person making the distress or seizure taxed by the clerk of the division court within whose division the same was made.

Furnishing
bill of costs
to clerk for
taxation.

(3) The bailiff or person making the distress or seizure shall furnish the clerk with a statement of his costs and expenses for taxation at the time mentioned in the notice, or at such other time as the clerk may direct, and in default of his so doing he shall not be entitled to any costs or expenses.

Duty of
clerk on
taxation.

(4) The clerk upon the taxation shall, among other things, consider the reasonableness of any charges for removal and keeping possession of the goods, and for advertising, or any sums alleged to have been paid therefor, and may examine either party on oath, touching the same, and the person requiring the taxation shall pay the clerk a fee of 25 cents therefor.

Appeal.

(5) An appeal may be made from such taxation to a judge of the county or district court. R.S.O. 1937, c. 122, s. 6.

Fees and
costs.

7. The Lieutenant-Governor in Council may prescribe fees and costs payable to persons performing the services mentioned in sections 1 and 3. 1941, c. 16, s. 4.

CHAPTER 74

The County Court Judges' Criminal Courts Act

1.—(1) The judge of every county and district court, or the junior or deputy judge thereof, authorized to preside at the sittings of the court of the general sessions of the peace, is constituted a court of record for the trial, out of sessions and without a jury, of any person committed to jail on a charge of being guilty of any offence for which such person may be tried at a court of general sessions of the peace, and for which the person so committed consents to be tried out of sessions and without a jury, and the court so constituted shall have the powers and perform the duties respecting the speedy trial of indictable offences mentioned in the *Criminal Code* (Canada). County court judges' criminal courts constituted. R.S.C. 1927, c. 36.

(2) The court so constituted shall be called the county or district court judges' criminal court of the county or district in which the same is held, as the case may be. Style of court. R.S.O. 1937, c. 105, s. 1.

2. Where under the *Criminal Code* (Canada) or *The Summary Convictions Act* an appeal is made to a county or district court, such appeal may be heard by the county or district judge in the court constituted under this Act. Appeals. Rev. Stat., c. 379. R.S.O. 1937, c. 105, s. 2.

CHAPTER 75

The County Courts Act

1. There shall be in and for every county and district a court of record, to be styled in counties, the "County Court of the County (*or* United Counties) of (*naming the County or United Counties*)", and in districts the "District Court of the District of (*naming the district*)". R.S.O. 1937, c. 103, s. 1.

2. Subject to *The County Judges Act*, the court shall be presided over by the judge or junior judge or by the acting or the deputy judge. R.S.O. 1937, c. 103, s. 2.

3. In case of the illness or absence of such judges the court may be presided over by a judge of any other county or district court, upon the request in writing of the judge or of the Attorney-General. R.S.O. 1937, c. 103, s. 3.

4. There shall be a clerk of every such court who shall be appointed by the Lieutenant-Governor in Council, and who shall hold office during pleasure. R.S.O. 1937, c. 103, s. 4.

5. The clerk shall give security for the due performance of the duties of his office in such sum and in such manner and form as the Lieutenant-Governor in Council may direct. R.S.O. 1937, c. 103, s. 5.

6. The clerk shall keep his office in the court house or, if there is no room available therein, at such place in the county or district town as the judge may direct. R.S.O. 1937, c. 103, s. 6 (1).

7. Except on holidays, and subject to rules of court, the office of the clerk shall be kept open from ten o'clock in the forenoon until four o'clock in the afternoon, except on Saturday, when the office shall be kept open until one o'clock in the afternoon. R.S.O. 1937, c. 103, s. 7.

8. The clerk shall tax costs, subject to an appeal to the judge. R.S.O. 1937, c. 103, s. 8.

Not to draw
or advise on
documents.

9. The clerk shall not, for fee or reward, draw or advise upon a chattel mortgage or other paper or document connected with the duties of his office, and for which a fee is not expressly allowed by the tariff. R.S.O. 1937, c. 103, s. 9.

Vacancy.

10. In the event of the death, resignation or removal from office of the clerk, the clerk of the peace shall, *ex officio*, be the clerk until another person is appointed and assumes the duties of the office, and every clerk of the peace while clerk of the court, shall, except in the county of York, be also *ex officio* registrar of the surrogate court, if the clerk held that office, and in case the clerk was local registrar, the clerk of the peace, while he holds the office of clerk of the court, shall be *ex officio* local registrar. R.S.O. 1937, c. 103, s. 10; 1948, c. 19, s. 1.

Special
examiners.

11.—(1) The special examiners of the Supreme Court shall be officers of the county and district courts, and shall possess the like powers in county and district court cases as those possessed by them in cases in the Supreme Court.

Idem.

(2) The clerk of any county court may act as special examiner in any action in any county court. R.S.O. 1937, c. 103, s. 11.

Trial
sittings,
general rule.

12.—(1) Except where otherwise provided, in each year the sittings of the county courts for the trial of issues of fact and assessments of damages shall commence with or without a jury on the first Monday in June and December and without a jury on the first Monday in April and October. R.S.O. 1937, c. 103, s. 12 (1, 7); 1942, c. 34, s. 7 (1), *part*.

Exceptions,
Carleton;

(2) In each year the sittings of the county court of the county of Carleton for the trial of issues of fact and assessments of damages shall commence with a jury on the first Monday in April and the third Monday in October and without a jury on the first Monday in June and December. O.Reg. 250/48.

Middlesex;

(3) In each year the sittings of the county court of the county of Middlesex for the trial of issues of fact and assessments of damages shall commence with or without a jury on the first Monday in June and December and without a jury on the first Monday in April and October. R.S.O. 1937, c. 103, s. 12 (4, 7); 1942, c. 34, s. 7 (1), *part*.

Simcoe;

(4) In each year the sittings of the county court of the county of Simcoe for the trial of issues of fact and assessments of damages shall commence with or without a jury on the

first Monday in June and the third Monday in October and without a jury on the first Monday in April and October. R.S.O. 1937, c. 103, s. 12 (7); 1942, c. 34, s. 7 (1), *part*; O.Reg. 250/48; O.Reg. 276/48.

(5) In each year the sittings of the county court of the ^{Wentworth} county of Wentworth for the trial of issues of fact and assessments of damages with or without a jury shall commence on the first Monday in December and March and the second Monday in May and September. R.S.O. 1937, c. 103, s. 12 (6); 1942, c. 34, s. 7 (1), *part*.

(6) In each year the sittings of the county court of the ^{York} county of York for the trial of issues of fact and assessments of damages with or without a jury shall commence on the first Monday in December, March and May and the second Monday in September. R.S.O. 1937, c. 103, s. 12 (5); 1942, c. 34, s. 7 (1), *part*.

(7) The judges of the county court district may postpone ^{Postpone-} the date of any sittings provided the postponement does not, ^{ment of} ^{sittings.} in the opinion of the judges, conflict or interfere with the sittings of the Supreme Court in such county court district.

(8) Where any such sittings is so postponed, notice of the ^{Notice of} postponement and of the date upon which such sittings is to ^{postpone-} ^{ment.} commence shall be posted in the office of the county court clerk in every county in the county court district not later than 60 days before the commencement of the postponed sittings. R.S.O. 1937, c. 103, s. 12 (2, 3).

13. The sittings of the district courts for the trial of issues ^{Sittings of} of fact and assessments of damages with or without a jury ^{district} ^{courts.} shall be held at,

- (a) Bracebridge, commencing on the fourth Monday of May and November;
- (b) Cochrane, commencing on the second Monday of June and the fourth Tuesday of November;
- (c) Fort Frances, commencing on the first Monday of April and October;
- (d) Gore Bay, commencing on the last Monday of May and the third Tuesday of October;
- (e) Kenora, commencing on the first Monday of June and the second Tuesday of November;

- (f) North Bay, commencing on the second Monday of June and the fourth Tuesday of November;
- (g) Parry Sound, commencing on the first Monday of June and December;
- (h) Port Arthur, commencing on the first Monday of May and the second Tuesday of November;
- (i) Sault Ste. Marie, commencing on the last Monday of May and the first Tuesday of November;
- (j) Sudbury, commencing on the first Monday of June and on the fourth Tuesday of November; and
- (k) Haileybury, commencing on the first Monday of June and December. R.S.O. 1937, c. 103, s. 13 (1); 1942, c. 34, s. 7 (1), *part*.

Hour of sittings.

14. The sittings of the county courts and the district courts shall not open earlier than ten o'clock in the morning of the first day of the sittings. R.S.O. 1937, c. 103, s. 14; 1950, c. 79, s. 5.

Different opening day and hour.

15. When it is deemed necessary or expedient in respect of any county or district, the Lieutenant-Governor in Council may specify a different opening day for the sittings from those provided in section 12 or 13, or a different opening hour for the sittings from that provided in section 14, in which case the sittings shall be held on the day and at the hour specified. 1948, c. 19, s. 3.

Clerk's fees for attendance.

16. The clerk shall be entitled to be paid by the county the sum of \$7 for each day's attendance at all sittings of the county court, both non-jury and jury. R.S.O. 1937, c. 103, s. 15; 1947, c. 20, s. 1.

Additional sittings.

17. Besides the regular sittings, additional sittings for trials without a jury may be held at such time as the judge may direct or appoint, and such sittings shall be held as often as may be requisite for the due despatch of business. R.S.O. 1937, c. 103, s. 16.

Concurrent sittings for trial of jury and non-jury cases.

18. The judges of any county or district court may sit separately and concurrently for the despatch of the business of a sittings. R.S.O. 1937, c. 103, s. 17.

Adjournment where judge unable to attend.

19.—(1) Where the judge who is to hold the sittings is unable to hold the same at the time appointed, the sheriff, or

in his absence the deputy sheriff, shall adjourn the court by proclamation to an hour on the following day to be named by him, and so from day to day until the judge is able to hold the court, or until he receives other directions from the judge or from the Attorney-General.

(2) The sheriff shall forthwith notify the Attorney-General of the adjournment. R.S.O. 1937, c. 103, s. 18. Notification
of Attorney-
General.

20.—(1) The county and district courts shall have jurisdiction in, Jurisdiction,

- (a) actions arising out of contract, expressed or implied, contract;
where the sum claimed does not exceed \$1,200;
- (b) personal actions, except actions for criminal con-
versation and actions for libel, where the sum claimed
does not exceed \$1,000;
- (c) actions for trespass or injury to land where the injury
to land;
sum claimed does not exceed \$1,000, unless the title
to the land is in question, and in that case also where
the value of the land does not exceed \$1,000, and the
sum claimed does not exceed that amount;
- (d) actions for the obstruction of or interference with a easements;
right-of-way or other easement where the sum
claimed does not exceed \$1,000, unless the title
to the right or easement is in question, and in that
case also where the value of the land over which the
right or easement is claimed does not exceed that
amount;
- (e) actions for the recovery of property, real or personal, recovery
of property;
including actions of replevin and actions of detinue
where the value of the property does not exceed
\$1,000;
- (f) actions for the enforcement by foreclosure or sale mortgages;
or for the redemption of mortgages, charges or liens,
with or without a claim for delivery of possession or
payment or both, where the sum claimed to be due
does not exceed \$1,000;
- (g) partnership actions where the joint stock or capital partnerships;
of the partnership does not exceed in amount or
value \$4,000;
- (h) actions by legatees under a will for the recovery or legacies;
delivery of money or property bequeathed to them

where the legacy does not exceed in value or amount \$1,000, and the estate of the testator does not exceed in value \$4,000;

equitable
relief;

(i) in all other actions for equitable relief where the subject matter involved does not exceed in value or amount \$1,000; and

insolvency.

(j) actions and contestations for the determination of the right of creditors to rank upon insolvent estates where the claim of the creditor does not exceed \$1,000. 1949, c. 19, s. 1 (1).

Dispute of
jurisdiction
by
defendant.

(2) Where a defendant intends to dispute the jurisdiction of the court on the ground that the action, though otherwise within the proper competence of the court, is not within it because of the amount claimed or of the value of the property in question or of the amount or value of the subject matter involved or, in the cases mentioned in clauses *g* and *h* of subsection 1, because the joint stock or capital of the partnership exceeds in amount or value \$4,000, or the estate of the testator exceeds in value \$4,000, he shall in his appearance or in his statement of defence state that he disputes the jurisdiction of the court and the ground upon which he relies for disputing it, and, in default of his so doing, unless otherwise ordered by the court or a judge, the question of jurisdiction shall not afterwards be raised or the jurisdiction be brought in question, and in any such action tried or disposed of in a county or district court such court shall have the right to award all costs of or incidental to such action on the scale of the Supreme Court in the same manner as if such action had been tried or disposed of in the Supreme Court. R.S.O. 1937, c. 103, s. 19 (2); 1949, c. 19, s. 1 (2).

Transmission
of papers
at instance
of plaintiff.

(3) Where the notice mentioned in subsection 2 is given, the plaintiff may on praecipe require all papers and proceedings in the action to be transmitted to the proper office of the Supreme Court in the county or district in which the action was brought, and it shall be the duty of the clerk of the county or district court forthwith to transmit the same to such office.

Transfer
of action.

(4) When the papers and proceedings so transmitted are received at the proper office of the Supreme Court, the action shall *ipso facto* be transferred to the Supreme Court.

Transfer of
papers at
instance of
defendant.

(5) Where the plaintiff does not exercise the right conferred by subsection 3, the defendant may, after the expiration of 10 days from the entry of appearance if he has given

notice that he disputes the jurisdiction of the court on entering his appearance, or after the expiration of 10 days from the filing of his statement of defence if he has given such notice in his statement of defence, apply to a judge of the Supreme Court for an order transferring the action to that court.

(6) Where the court or a judge makes an order under subsection 2 allowing the defendant to question the jurisdiction of the court, the court or judge may direct the action to be transferred to the Supreme Court on such terms as to costs and otherwise as may be deemed just.

Terms of order of transfer.

(7) Where an action is transferred to the Supreme Court under the provisions of this section, if the plaintiff is awarded costs, unless otherwise ordered by the court or a judge, they shall after the date of the transfer be taxed according to the scale of the Supreme Court, whether or not the action is in fact within the proper competence of the county or district court. R.S.O. 1937, c. 103, s. 19 (3-7).

Scale of costs in action transferred.

21.—(1) Where the defendant pleads a set-off or counterclaim, either party, within six days after the plaintiff has delivered his reply to such defence of set-off, or his defence to the counterclaim, may apply to a judge of the Supreme Court for an order transferring the action and counterclaim to the Supreme Court on the ground that such set-off or counterclaim involves matter beyond the jurisdiction of the court.

Where set-off or counterclaim is beyond jurisdiction.

(2) The judge, if satisfied that the set-off or counterclaim involves matter which exceeds the jurisdiction of the court, may order the transfer upon such terms as to costs and otherwise as he may deem just.

Judge's order transferring.

(3) If no such application is made within the time limited, or if an application so made has been refused, the jurisdiction of the court to hear and determine the whole matter involved in the set-off or counterclaim shall be deemed to be established. R.S.O. 1937, c. 103, s. 20.

Jurisdiction established where no order of transfer made.

22. Where an action has been transferred to the Supreme Court or to another county or district court under this Act, it shall be in the same plight and condition as it was in at the time of the transfer, and thereafter may be proceeded with as if it had been commenced in the court into which it has been so transferred. R.S.O. 1937, c. 103, s. 21.

Consequences of transfer.

23. Where it appears in an action brought in a county or district court that such court has not cognizance thereof, but that the court of some other county or district has juris-

Transfer of action to county or district court having jurisdiction.

diction to try the same, the judge before whom the action is pending may, at any time before or during the trial thereof, order the action to be transferred to such other county or district court upon such terms as to costs and otherwise as he may deem just. R.S.O. 1937, c. 103, s. 22.

Prohibition
not to lie
when case
transferred.

24. Prohibition shall not lie in respect of an action or counterclaim which may be transferred under this Act to the Supreme Court, or from one county or district court into another county or district court. R.S.O. 1937, c. 103, s. 23.

Abandon-
ment of so
much of
claim as is
in excess of
jurisdiction.

25.—(1) Where it appears that the claim of the plaintiff is for an amount beyond the jurisdiction of the court, he may, by writing signed by him and filed, upon such terms as the judge deems proper as to costs and otherwise, abandon the excess and in such case the plaintiff shall forfeit such excess and shall not be entitled to recover it in any other action.

Idem.

(2) A defendant shall have the like right in respect of his set-off or counterclaim. R.S.O. 1937, c. 103, s. 24.

Relief which
may be
granted by
courts.

26. The court shall, as regards all causes of action within its jurisdiction, have power to grant and shall grant such relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to grant vesting orders and to relieve against penalties and forfeitures, but shall not have the power to remove a trustee or to appoint a new trustee under *The Trustee Act*, and shall give such and the like effect to every ground of defence or counterclaim, equitable or legal, by the same mode of procedure, and in as full and ample a manner as might and ought to be done in the like case by the Supreme Court. R.S.O. 1937, c. 103, s. 25.

Rev. Stat.,
c. 400.

In what
cases and on
what condi-
tions causes
shall be
removable.

27. Except in the cases mentioned in subsections 3, 5 and 6 of section 20 and in section 21, no action shall be removed by order of *certiorari* or otherwise into the Supreme Court unless the debt or damages claimed amount to upwards of \$100, and then only on affidavit and by leave of a judge of the Supreme Court, if it appears to the judge fit to be tried in the Supreme Court, and upon such terms as to costs, giving security for debt or costs and otherwise as he deems just. R.S.O. 1937, c. 103, s. 26.

Venue for
certain
actions.

28.—(1) Unless by consent of the parties, or unless the place of trial is changed, actions under clauses *c* and *d* of subsection 1 of section 20 shall be brought and tried in the court of the county or district in which the land is situate, and actions under clause *g* of that section shall be brought and

tried in the court of the county or district where the partnership has or had its principal place of business, and actions under clause *h* of subsection 1 of that section shall be brought and tried in the court of the county or district where letters probate or of administration have issued, or where the deceased resided at the time of his death.

(2) Actions for the recovery of real property shall be brought and tried in the court of the county or district in which the property sought to be recovered is situate. R.S.O. 1937, c. 103, s. 27. Actions for ' the recovery of real property.

29. An action by or against a judge shall not be brought in the court of which he is a judge, but shall be brought in the court of a county or district adjoining that in which such judge resides. R.S.O. 1937, c. 103, s. 28. Where action against judge of court may be brought.

30. Subject to *The Judicature Act* and to rules of court, the practice and procedure of the Supreme Court shall apply to the county and district courts. R.S.O. 1937, c. 103, s. 29. Procedure. Rev. Stat., c. 190.

31. Where the plaintiff fails to recover judgment by reason that the court has not jurisdiction, the court shall nevertheless have jurisdiction over the costs of the action or other proceeding, and may order by and to whom the same shall be paid. R.S.O. 1937, c. 103, s. 30. Costs where action fails for want of jurisdiction.

32. Every county and district court shall have the like power as is possessed by the Supreme Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the Supreme Court; and the same shall have the like force and effect as writs and process issued out of the Supreme Court. R.S.O. 1937, c. 103, s. 31. Power to enforce judgments and orders.

33. Every county and district court may punish by fine or imprisonment, or by both, for any wilful contempt of or resistance to its process, rules or orders; but the fine shall not in any case exceed \$100, nor shall the imprisonment exceed six months. R.S.O. 1937, c. 103, s. 32. Contempt of court.

34.—(1) Where it is proper to direct a reference, the same may be made to any officer to whom a reference may be directed by the Supreme Court or to the clerk of the court. References, generally;

(2) Where the judge of the court is local master, the reference may be made to himself, but no fees shall be charged by him on such reference. to judge;

fees and
costs.

(3) Upon every such reference the fees to be paid and the costs to be allowed, whether as between party and party, or solicitor and client, shall be according to the county court tariff. R.S.O. 1937, c. 103, s. 33.

Powers of
judge as to
reference.

35.—(1) In an action in a county or district court the judge shall have the same powers with regard to the making of an order of reference as may be exercised by a judge of the Supreme Court in an action therein.

Appeal from
referee.

(2) An appeal, in like manner and within the same time as in like cases in actions in the Supreme Court, shall lie from the report on the reference to the judge of the county or district court in chambers, who shall, upon such appeal, have the same power as may be exercised by a judge in like cases in the Supreme Court.

Appeal to
Court of
Appeal.

(3) An appeal shall lie from any order, judgment or decision of the judge of a county or district court, and from the report upon a reference made under subsection 2 of section 34 to the Court of Appeal, and the proceedings and practice on the appeal as to staying proceedings and otherwise shall be similar to the proceedings and practice relating to an appeal from a judgment under section 37.

Except
where the
Crown is
a party.

(4) Nothing in this section shall empower the judge of a county or district court to refer any proceeding to which His Majesty is a party, or any question or issue in any such proceeding, to an official referee, without the consent of His Majesty. R.S.O. 1937, c. 103, s. 34.

Rehearing
where judge
dies, or does
not give
judgment.

36.—(1) Where the judge before whom any action is tried, either with or without the intervention of a jury, dies before giving judgment, or having reserved his judgment, after having heard the evidence, does not deliver judgment within six months thereafter, either party may thereupon set the action down to be reheard by such judge of the Supreme Court or of a county court as may be designated by a judge of the Supreme Court sitting in weekly court.

Further
evidence.

(2) No further evidence shall be received upon such rehearing unless by leave of the court.

Notice.

(3) Notice of the intended rehearing shall be served on all parties to the action and a copy thereof with proof of service filed in the office of the county court clerk at least 14 days before the setting down of the action for rehearing.

Time.

(4) The action shall be so set down at least seven days before being reheard.

(5) The action shall be set down to be reheard at the first ^{Rehearing} sittings of weekly court at Osgoode Hall, Toronto, after the ^{at weekly} expiration of 21 days from service of notice of intention to ^{court.} rehear.

(6) The party giving notice of rehearing shall at the time ^{Transfer of} of filing notice of intended rehearing praecipe to the proper ^{papers.} officer at Osgoode Hall, Toronto, the record, exhibits and all other papers used at the trial together with a copy of the evidence taken at the trial, and it shall be the duty of the clerk of the county court upon receiving the praecipe and being paid the proper charges for postage and stenographers' fees to forward such papers and evidence duly certifying thereto within 10 days thereafter.

(7) No further proceedings in the action shall thereafter ^{Further} be taken in the county court without the order of a judge of ^{proceedings.} the Supreme Court after notice.

(8) Upon such rehearing, the evidence, exhibits and papers ^{Judgment} used at the trial shall be read and after argument by counsel ^{on rehearing.} the presiding judge shall deal with the action as on an original trial and shall direct that judgment shall be entered by the county court clerk in accordance with his findings.

(9) The costs of such rehearing shall be fixed by the judge ^{Costs of} presiding at such rehearing, who shall also direct by whom ^{rehearing.} they are to be paid.

(10) An appeal shall lie from such judgment or finding in ^{Appeal.} the same manner and on the same terms as if the judgment had been pronounced at a trial in the county court. R.S.O. 1937, c. 103, s. 35.

37.—(1) Any party to a cause or matter may appeal to the ^{Appeals to} Court of Appeal from any judgment directed to be entered at ^{Court of} or after the trial or from a refusal to enter a judgment. ^{Appeal.}

(2) Where a party does not appear at the trial, a motion for ^{Motion for} a new trial may be made before the judge, but in all other ^{new trial.} cases a motion for a new trial shall be made before the Court of Appeal. R.S.O. 1937, c. 103, s. 36.

38.—(1) An appeal shall also lie to the Court of Appeal at ^{Appeals from} the instance of any party to a cause or matter from, ^{decision} of judge.

(a) every decision or order of a judge in court or chambers under any of the powers conferred upon him by any rules of court or by any statute, unless provision is therein made to the contrary;

(b) every decision or order in any cause or matter disposing of any right or claim; and from

(c) any decision or order of a judge, whether pronounced or made at the trial, or on appeal from taxation or otherwise, which has the effect of depriving the plaintiff of county court costs on the ground that his action is of the proper competence of the division court, or of entitling him to county court costs on the ground that the action is not of the proper competence of the division court.

When
section not
applicable.

(2) This section shall not apply to an order or decision which is not final in its nature, but is merely interlocutory or where jurisdiction is given to the judge as *persona designata*. R.S.O. 1937, c. 103, s. 37.

Trans-
mission of
pleadings,
etc.

39.—(1) The clerk shall, at the request of the appellant, transmit to the proper officer of the Supreme Court the pleadings in the cause and all motions or orders made, granted or refused therein together with the judgment or decision and all other papers in the cause affecting the question raised by the appeal.

Evidence,
etc., to be
certified.

(2) The evidence and all objections and exceptions thereto together with the judge's charge to the jury where the trial has been held with a jury, shall be certified under the hand of the stenographic reporter who was present at the trial. R.S.O. 1937, c. 103, s. 38.

Staying
proceedings
on appeal.

40. Subject to section 41, any judge of the county or district court appealed from may, upon application to him, stay proceedings in the action to enable the appeal to be brought, upon such terms and for such time as he may deem just. R.S.O. 1937, c. 103, s. 39.

Setting down
appeals.

41. The appeal shall be made within the time and in the manner prescribed by the rules of court. R.S.O. 1937, c. 103, s. 40.

Powers to
amend and
receive
further
evidence.

42.—(1) The Court of Appeal shall have all the powers and duties, as to amendment and otherwise, of the judge appealed from, and full discretionary power to receive further evidence upon questions of fact, either by oral examination before the court or as may be directed.

Further
evidence.

(2) Such further evidence may be given without special leave as to matters which have occurred after the date of the judgment, order or decision complained of.

(3) Except as provided by subsection 2, upon an appeal ^{Idem.} from a judgment, order or decision given upon the merits at the trial or hearing, such further evidence shall be admitted on special grounds only, and not without the special leave of the court. R.S.O. 1937, c. 103, s. 41.

43.—(1) On an appeal the Court of Appeal may set aside ^{Order of} the judgment and may direct any other judgment to be ^{Court of} entered, or may direct a new trial to be had, and make such ^{Appeal on} other order as to costs and otherwise as appears just. ^{appeal.}

(2) The decision of the Court of Appeal shall be certified by the registrar of the court to the clerk of the court with whom the judgment or order appealed from was entered, who shall thereupon cause the decision to be entered in the proper judgment or order book, and all subsequent proceedings may be taken thereupon as if the decision had been given in the court below. R.S.O. 1937, c. 103, s. 42.

44. Subject to the approval of the Lieutenant-Governor in ^{Power of} Council, the Rules Committee may, ^{Rules Com-}
^{mittee re,}

- (a) make rules for regulating the practice and procedure ^{rules of} in the county and district courts; ^{practice;}
 - (b) make rules and regulations regulating and fixing all ^{fees of} fees payable to the Crown in respect of proceedings ^{Crown;} in such courts;
 - (c) prescribe a tariff of fees to be allowed to solicitors ^{fees of} and counsel practising in such courts; ^{solicitors;}
 - (d) prescribe forms for use in such courts. R.S.O. 1937, ^{forms.} c. 103, s. 43 (1); 1941, c. 55, s. 8.
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CHAPTER 76

The County Judges Act

- 1.** The judges of the several county and district courts ^{Tenure of office.} now holding office, as well as the judges hereafter to be appointed, shall hold office during good behaviour, but shall be subject to removal by the Lieutenant-Governor for inability, incapacity or misbehaviour, established to the satisfaction of the Lieutenant-Governor in Council. R.S.O. 1937, c. 102, s. 1.
- 2.** The person to be appointed to be the judge or junior ^{Qualification.} judge of a county or district court shall be a barrister of at least seven years standing at the Bar of Ontario. R.S.O. 1937, c. 102, s. 2.
- 3.** Unless otherwise expressed in the commission, where ^{Style.} more than one judge of a county or district court is appointed for a county or district, the judge whose commission has priority of date shall be styled "The Judge of the County or District Court of....." (*as the case may be*) and the other judge of the same court shall be styled "The Junior Judge of the County or District Court of....." (*as the case may be*). R.S.O. 1937, c. 102, s. 3.
- 4.** A junior judge may be appointed for each of the counties ^{Junior of judges.} of Wentworth, Carleton and Middlesex and the districts of Thunder Bay and Sudbury, and two junior judges may be appointed for the county of Essex. R.S.O. 1937, c. 102, s. 4; 1950, c. 79, s. 6.
- 5.**—(1) Junior judges not exceeding eight in number may be ^{County of York.} appointed for the county of York. R.S.O. 1937, c. 102, s. 5.
- (2) In the county court of the county of York all such ^{Arrangement of courts.} arrangements as may be necessary or proper for the holding of any of the courts, or the transaction of business, or the arrangement from time to time for judges to hold such courts, or to transact such business, shall be made by the judge and junior judges of the county court of the county of York with power in the judge of the county court of the county of York to make such readjustment or reassignment as may be necessary from time to time. 1948, c. 20, s. 1.

Powers of
junior
judges.

6. Where any power or authority is by this Act or otherwise conferred upon or may be exercised by the judge of a county or district court, whether with reference to the holding of any of the courts of the county or district which he may hold, or to the business of any of such courts, or to any other matter or thing over which he has jurisdiction, the like power and authority shall be possessed and may be exercised by a junior judge, subject to the general regulation and supervision of the judge. R.S.O. 1937, c. 102, s. 6.

Residence
in county.

7. Every judge and junior judge of a county or district court shall reside within the county or district for which he is appointed, unless otherwise provided by Order in Council. R.S.O. 1937, c. 102, s. 7.

Not to
practise.

8. A judge or junior judge shall not, directly or indirectly, practise as counsel or solicitor or act as a notary public or conveyancer under the penalty of forfeiture of office and the further penalty of \$400. R.S.O. 1937, c. 102, s. 8.

Illness
or death
of judge.

9. Where a judge who has appointed a time and place for the hearing of any application, proceeding or matter becomes ill or dies, or for any other reason is unable to attend at the time and place so appointed, the application, proceeding or matter may be heard by another judge of the same county or district court or by any judge who may for the time being be acting as a judge of such court. 1943, c. 28, s. 9.

Allowances.

10.—(1) There shall be paid,

- (a) to the senior judge of the county court of the county of York, an allowance at the rate of \$2,500 per annum; and
- (b) to the judge of every other county and district court and to every junior judge of a county or district court, an allowance at the rate of \$1,500 per annum.

Further
allowance
where one
judge.

(2) In addition to the allowances provided in subsection 1 there shall be paid to the judge of every county and district court in a county or district in which there is only one judge, a further allowance as follows:

Rev. Stat.
c. 380.

- (a) Where the judge's fees under *The Surrogate Courts Act* for the calendar year exceed the sum of \$2,000 but do not exceed \$3,000, 40 per cent of such excess.
- (b) On the excess over \$3,000 up to \$4,000, 30 per cent.

(c) On the excess over \$4,000 up to \$5,000, 20 per cent.

(d) On the excess over \$5,000 up to \$6,000, 10 per cent.

(3) Where in any county or district there is more than one judge, the judge's fees under *The Surrogate Courts Act* shall be allocated equally between or among the judge and the junior judge or judges, and each judge and junior judge shall receive an allowance in accordance with subsection 2 calculated on such allocation. Where more than one judge. Rev. Stat., c. 380.

(4) The allowances under subsection 1 shall be payable monthly and the allowances under subsections 2 and 3 shall be payable annually after the end of the calendar year out of the Consolidated Revenue Fund. 1947, c. 21, s. 1. When allowances payable.

(5) Such annual sums shall be in lieu of all fees and allowances payable to the judge of a county or district court for any services performed by him under any Act of the Legislature, including fees as judge of the surrogate court and as local master of the Supreme Court, and where such fees are payable by the parties to any proceedings before the judge, or upon any order or certificate made or given by him, they shall be payable in law stamps and shall form part of the Consolidated Revenue Fund, and except as hereinafter provided, the judge of a county or district court shall not be entitled to receive any fees whatever under any Act of the Legislature. Judges not to receive fees.

(6) Nothing in the foregoing subsections shall apply to or affect the payment of any allowance or fees to the judge of a county or district court with respect to any office which may be lawfully held by him in addition to his office as judge, to which any annual allowance or salary may be attached, or in the performance of his duties as an arbitrator or referee under *The Municipal Act*, *The Public Works Act*, *The Railways Act* (Ontario), *The Arbitration Act*, *The Municipal Arbitrations Act*, or any other statute designating him by his name of office as an arbitrator or referee. Exceptions as to arbitrators, etc. Rev. Stat., cc. 243, 323, 331, 20, 244.

(7) Nothing in this section shall affect or prevent the payment to the judge of a county or district court of his travelling or other expenses when called upon to perform any duty outside the county or district town of the county or district. R.S.O. 1937, c. 102, s. 9 (3-5). Travelling expenses not affected.

11.—(1) A barrister of at least three years standing at the Bar of Ontario may be appointed to be deputy judge for any county or district. Deputy judges, appointment.

Idem.

(2) The appointment may be made notwithstanding that the office of judge is vacant by death, or resignation, or that the judge is ill or absent at the time of the appointment. R.S.O. 1937, c. 102, s. 10.

Tenure of office and powers.

12. A deputy judge shall hold office during pleasure, and in case of the death, illness or absence of the judge, shall have authority to perform in the place of the judge, in the county or district for which he is appointed, all the duties of and incident to the office of the judge, and all acts required or allowed to be done by the judge under this or any other Act, unless therein otherwise expressly provided. R.S.O. 1937, c. 102, s. 11.

Right to practise.

13. Nothing herein contained shall prevent a deputy judge from practising the profession of the law. R.S.O. 1937, c. 102, s. 12.

Oath of office.

14. Every judge, junior judge and deputy judge, before entering upon the duties of his office, shall take and subscribe the following oath before some person appointed by the Lieutenant-Governor to administer the same:

"I,, do swear that I will (*in the case of a Deputy Judge add the words* as occasion may require), truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of Judge of the County or District Court of the County or District of., (*as the case may be*). So help me God."

R.S.O. 1937, c. 102, s. 13.

Simultaneous sittings.

15.—(1) At any sittings of the county or district court held at the same time as the sittings of the court of general sessions of the peace or of a division court in any county or district, or of any two of the courts at the same time, either the judge or the junior judge, or both of them, may, if the judge thinks fit, preside in any of such courts, or each of them in one of such courts at the same time, so that two of the courts may sit and the business therein be proceeded with simultaneously.

York county.

(2) The county court of the county of York, the court of general sessions of the peace, and the division courts of the said county, or any of such courts, may sit at the same time, and the business thereof may be proceeded with simultaneously. R.S.O. 1937, c. 102, s. 14.

Powers of judge to act outside his county.

16.—(1) It shall be competent for any judge of a county or district court to hold any of the courts in any county or district or to perform any other duty as a judge of a county or district court in any such county or district upon being

required so to do by an order of the Governor-General in Council, made at the request of the Lieutenant-Governor.

(2) The judge of any county or district court may, without any such order, perform any judicial duty in any county or district on being requested so to do by the judge of the county or district court to whom the duty for any reason belongs. At request of any other judge.

(3) Any retired judge of a county or district court may hold any court or perform any other duty of a judge of a county or district court in any court or district on being authorized so to do by an order of the Governor-General in Council, made at the request of the Lieutenant-Governor. When retired county judges may act for county judges.

(4) The judge so required, requested or authorized as aforesaid shall, while acting, be deemed to be a judge of the county or district court of the county or district in which he is so required or requested to act, and shall have all the powers of such judge. Powers of a judge so acting.

(5) In this section, "judge" includes a junior judge. R.S.O. 1937, c. 102, s. 15. Interpretation.

17. The Lieutenant-Governor in Council may empower a judge or junior judge of a county or district court to transact at such place out of his county or district to be named in the Order in Council, as may be deemed proper, all such business depending in his court as may be transacted in chambers where the solicitors for all parties reside in the place so named, or with the consent of the solicitors for all parties. R.S.O. 1937, c. 102, s. 16. Authorization by Lieutenant-Governor in Council.

18.—(1) A shorthand writer may be appointed by the Lieutenant-Governor in Council for the local courts of each county and provisional judicial district. Shorthand writers, appointment;

(2) The shorthand writer so appointed shall be subject to the direction of the judge or, in his absence, of the junior judge or judges, and shall be entitled to such remuneration by salary or by fees, or partly by salary and partly by fees, as the Lieutenant-Governor in Council may direct. to be under direction of judge; remuneration;

(3) If the shorthand writer is paid by salary only, the fees payable in respect of his duties shall be applied in reduction of his salary, and the balance, if any, shall be paid by the county quarterly on the 1st days of January, April, July and October of every year. when paid by salary only;

(4) The fees and all matters relating to the duties of the shorthand writer shall be determined and regulated by the regulation of fees and duties;

judge of the county or district court, subject to the approval of the Lieutenant-Governor in Council.

city and
separated
town to
contribute.

Rev. Stat.,
c. 243.

(5) Every city and separated town shall pay the county a proper proportion of the remuneration which, in case of disagreement, shall be determined by arbitration according to *The Municipal Act*, and subject thereto, and unless the same is otherwise determined, the city or town shall pay to the county one-half of such remuneration. R.S.O. 1937, c. 102, s. 17.

Interpreters,
appointment.

19. If the council of any county by resolution requests the appointment of an official interpreter to act at the courts held in that county, an appointment may be made in the same manner and subject to the same terms and conditions as provided with respect to shorthand writers by section 18 which shall apply as nearly as may be to official interpreters. R.S.O. 1937, c. 102, s. 18.

County
court
districts.

20. The Lieutenant-Governor in Council may order that a county or two or more counties shall form a county court district for the purposes of this Act. R.S.O. 1937, c. 102, s. 19 (1); 1946, c. 89, s. 12 (1).

Holding
courts in
districts.

21. After the erection of a county court district, the several county courts, courts of general sessions of the peace and county court judges' criminal courts shall be held by the judges, including the junior judges in the district, in rotation so far as may be practicable in view of the respective general length of service and strength of the other judges, and the special duties assigned to junior judges as well as in view of other offices, if any, held by any of the judges, and all other circumstances. R.S.O. 1937, c. 102, s. 20; 1941, c. 17, s. 1.

Annual
meeting for
assignment
of duties.

22.—(1) The judges in each county court district shall meet together at least once in every year, and the judges present or a majority of them, shall arrange and appoint which of the said courts in the district shall be held by each of the judges of the district throughout the ensuing year, and what other judicial work each shall discharge in the respective counties of the district throughout the year.

How
convened.

(2) The judge in a county court district who, in point of time, is senior in appointment to office shall convene the meetings referred to in this section, and unless all the judges present at any such meeting unanimously agree upon a different mode of dividing the work, it shall be divided strictly in conformity with section 21, and no judge, except by reason of illness or other unavoidable cause, shall be excused from

performing the judicial work assigned to him at any such meeting. R.S.O. 1937, c. 102, s. 21.

23. Every judge to whom any duty is assigned at such meeting shall perform the duty so assigned to him, and if he is, by reason of illness or other cause, unable to perform it, he shall so far as possible arrange to have it performed by another person competent by law in that behalf. R.S.O. 1937, c. 102, s. 22.

Judges to perform duties assigned.

24. Where by reason of the absence or illness of a judge, or from any other cause, it is impossible for the arrangements made at such meeting to be carried out with respect to any duty belonging to a county court judge, the judges of the district shall see that the deficiency is supplied by some other person competent by law in that behalf, and shall forthwith communicate what they do therein to the Provincial Secretary. R.S.O. 1937, c. 102, s. 23.

Absence or illness of judge.

(NOTE.—Under the authority of section 10 of The Statute Law Amendment Act, 1943, a Proclamation was issued suspending the operation of sections 21 to 24 until a further day to be named by Proclamation.)

25. The judge of any county forming part of a district may exercise and perform in any part of the district any power or duty assigned to the judge of a county court by any statute of Ontario or any judicial act affecting the courts or business of the county of which his commission designates him as judge, and being within the legislative authority of Ontario. R.S.O. 1937, c. 102, s. 24.

Judge to have jurisdiction throughout districts.

26. Where a vacancy occurs in the office of the judge of the county court in any county included in a county court district, and the Lieutenant-Governor declares that, owing to the lack of sufficient business, it is unnecessary that the vacancy should be filled, the remaining judges in the district shall arrange for the performance of the duties of the judge of the county court of the county in which the vacancy occurs by one of themselves or by some other person competent by law in that behalf, and every judge or other person so acting shall have the like powers, and shall perform the like duties as a judge or other person competent by law in that behalf appointed or authorized for that purpose may exercise and perform under any statute of Ontario in the county in which the vacancy has occurred. R.S.O. 1937, c. 102, s. 25.

Where vacancy occurs and business does not warrant new appointment.

27. Where in any district erected under this Act there is a city having a population of 100,000 or more and it appears to the council of the city that one or more stenographers

Appointment of stenographers by city council for judges' clerical work.

is needed to do clerical work other than court reporting for the judges, or any of them, the council may appoint one or more qualified persons for such purpose, whose salary shall be fixed and paid in monthly instalments by the council, provided that the council may arrange with the governing body or bodies of the county or counties comprised in the district, or any of them, for the partial payment or reimbursement of the salary on such terms as may be agreed upon. R.S.O. 1937, c. 102, s. 26.

CHAPTER 77

The County Publicity Act

1.—(1) An association, to be known as a publicity association, may be formed in any county by the county council or in any district in such manner as the regulations may prescribe. R.S.O. 1937, c. 84, s. 1 (1), *amended*. Formation of association.

(2) The objects of the association shall be the investigation of the resources and possibilities of the county or district and the advertising and publishing of the same by the preparation, publication and distribution of pamphlets and such other means as may be authorized by the regulations. R.S.O. 1937, c. 84, s. 1 (2). Objects of association.

2. All pamphlets or other literature prepared by a publicity association shall be submitted to the Minister of Agriculture for approval before being issued. R.S.O. 1937, c. 84, s. 2. Minister to approve publications.

3. Every publicity association shall be entitled to receive from the Province out of any moneys appropriated by the Legislature for that purpose a sum equal to one-third of the total cost to the association of carrying out the objects mentioned in section 1, but the total cost on which grants shall be payable under this Act shall not exceed \$1,000 in any one county or district in any one year. R.S.O. 1937, c. 84, s. 3. Provincial grant in aid of association.

4. Application for grants payable under this Act may be made to the Minister of Agriculture, and shall be accompanied by an affidavit signed by the president and secretary of the publicity association setting forth in detail the receipts and expenditures of the association for the period covered by the application, and the cheque shall be made payable to the order of the president and secretary of the association. R.S.O. 1937, c. 84, s. 4. Obtaining payment of provincial grant.

5. The Lieutenant-Governor in Council may make such regulations as may be deemed necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 84, s. 5. Power to make regulations.

6. Every publicity association shall be entitled to the assistance free of charge of the agents of Ontario in Great Britain or elsewhere, in the distribution of pamphlets or other advertising matter. R.S.O. 1937, c. 84, s. 6. Assistance of agents of Province in England.

CHAPTER 78

The Creditors' Relief Act

1. In this Act,Interpre-
tation.

- (a) "county" includes a provisional judicial district;
- (b) "county court" includes district court;
- (c) "execution" includes a writ of *feri facias* and every subsequent writ for giving effect thereto;
- (d) "judge" means a judge of the county court of the county the sheriff of which is required to take the proceedings directed by this Act;
- (e) "sheriff" includes any officer to whom an execution is directed. R.S.O. 1937, c. 126, s. 1.

2. Where a judge is disqualified to act in a matter arising under this Act, a judge of the county court of an adjoining county shall have jurisdiction to act in his place. R.S.O. 1937, c. 126, s. 2.

3. Subject to the provisions hereinafter contained, there shall be no priority among creditors by execution from the Supreme Court or from a county court. R.S.O. 1937, c. 126, s. 3.

4.—(1) A creditor who attaches a debt shall be deemed to do so for the benefit of all creditors of his debtor as well as for himself.

Where
judge is
disqualified.

Priority
among
execution
creditors
abolished.

(2) Payment of such debt shall be made to the sheriff of the county in which the garnishee resides or, if there are more garnishees than one in respect of the same debt, then to the sheriff of the county in which any one of them resides.

Attachment
to be for
benefit of
all creditors.

(3) This section shall not apply to debts attached by proceedings in a division court unless before the amount recovered by the garnishee proceedings is actually received by the creditor an execution against the property of the debtor is placed in the hands of the sheriff of such county.

To whom*to
be paid.

Attachments
in division
courts.

Money paid to sheriff who has no execution in hand.

(4) Where money is paid to a sheriff in whose hands there is no execution against the property of the debtor, and there is in the hands of the sheriff of another county an execution against the property of the debtor, the court or a judge on the application of the last-mentioned sheriff or of a creditor or of the debtor may direct, on such terms as to costs and otherwise as may seem just, that such money be paid over to the last-mentioned sheriff to be distributed by him as if such money had then been paid to him by the garnishee, and the court or judge shall fix the compensation to be paid to the sheriff by whom the money was received from the garnishee for his services.

Money paid into division court.

(5) Where money which a sheriff is entitled to receive under this section is paid into a division court, the sheriff shall be entitled to demand and receive the same from the clerk of the court for the purpose of distributing it under this Act.

Right of attaching creditor to share with other creditors.

(6) An attaching creditor shall be entitled to share in respect of his claim against the debtor in any distribution made under this Act, but his share shall not exceed the amount recovered by his garnishee proceedings unless he has in due time placed an execution or a certificate given under this Act in the sheriff's hands.

Sheriff's poundage.

(7) The sheriff shall be entitled to poundage upon money received and distributed by him under this section at the rate of one and a quarter per cent and no more.

Sheriff's right to recover attached debt.

(8) If an attached debt which the sheriff is entitled to receive, or any part of it, is received by the attaching creditor, the sheriff may recover the same from him; but a clerk of a division court shall not be liable for making payment to the creditor unless at the time of payment he has notice that there is an execution against the property of the debtor in the sheriff's hands. R.S.O. 1937, c. 126, s. 4.

Entries by sheriff after levy.

5.—(1) Where a sheriff levies money under an execution against the property of a debtor, or receives money in respect of a debt which has been attached or sold under section 15 of *The Absconding Debtors Act*, he shall forthwith make an entry (Form 1) in a book to be kept in his office, and such book shall be open to the public for inspection without charge.

Rev. Stat. c. 1.

Distribution.

(2) The money shall thereafter be distributed rateably among all execution creditors and other creditors whose executions or certificates given under this Act were in the sheriff's hands at the time of the levy or receipt of the money, or who deliver their executions or certificates to the sheriff

within one month from the entry, subject to the provisions hereinafter contained as to the retention of dividends in the case of contested claims, and to the payment of the costs of the creditor under whose execution the amount was made, and subject also to subsection 6 of section 4, and, as respects money recovered by garnishee proceedings, subject to the payment thereof to the creditor who obtained the attaching order of his costs of such proceedings.

(3) Subsection 2 shall not apply to money received by a sheriff as the proceeds of a sale of property by him under an interpleader order; but upon the determination of the interpleader proceeding in favour of the creditors the money, whether in the sheriff's hands or in court pending such determination, shall, subject to subsection 4, be distributed by the sheriff among the creditors contesting the adverse claim.

Money realized on sale under interpleader order.

(4) Where proceedings are taken by a sheriff for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who agree to contribute *pro rata* in proportion to the amount of their executions or certificates to the expense of contesting any adverse claim shall be entitled to share in any benefit which may be derived from the contestation of such claim so far as may be necessary to satisfy their executions or certificates.

Rights of creditors in case of interpleader proceedings.

(5) The judge making the interpleader order may direct that one creditor shall have the carriage of the interpleader proceedings on behalf of all creditors interested, and the costs thereof, as between solicitor and client, shall be a first charge upon the money or goods which may be found by the proceedings to be applicable upon the executions or certificates.

Order as to carriage of proceedings.

(6) Upon any interpleader application the judge may allow to other creditors who desire to take part in the contest a reasonable time in which to place their executions or certificates in the sheriff's hands upon such terms as to costs and otherwise as may be deemed just.

Time allowed in interpleader.

(7) Where the sheriff, subsequently to the entry, but within the month, levies a further amount from the property of a debtor or receives money in respect of a debt which has been attached or sold, the same shall be dealt with as if such amount has been levied or received prior to the entry.

Application of subsequent levy.

(8) If, after the month, a further amount is so levied or received, a new notice shall be entered and the distribution to be made of the amount so levied or received and of any

Notice and distribution on further levy.

further amount levied or received within a month of the entry of the last-mentioned entry shall be governed by the entry thereof in accordance with the foregoing provisions of this section, and so from time to time as further amounts are so levied or received.

Share in subsequent distribution.

(9) Where a creditor has shared in a previous distribution, he shall be entitled to share in a subsequent one only in respect of the amount remaining due to him after crediting what he has received in any previous distribution.

Equality of all executions.

(10) In distributing money under this section creditors who have executions against goods or lands only or against goods and lands shall be entitled to share rateably with all others and money realized under execution against either goods or lands or against both, or under an attaching order.

What creditors may share.

(11) Subject to subsection 6 of section 4, a creditor shall not be entitled to share in the distribution unless by the delivery of an execution, or otherwise under this Act, he has established a claim against the debtor either alone or jointly with some other person.

Money realized under Rev. Stat., c. 1.

(12) Where money in the hands of the sheriff for distribution is the proceeds of the property of an absconding debtor against whom an order of attachment has been issued under *The Absconding Debtors Act*, the period mentioned in subsection 2 shall be two months, and subsection 8 shall be read as if the words "the month" in the first line were "the two months". R.S.O. 1937, c. 126, s. 5.

Proceedings where debtor allows execution to remain unsatisfied.

6.—(1) If a debtor permits an execution issued against him under which any of his goods or chattels are seized by a sheriff to remain unsatisfied in the sheriff's hands until within two days of the time fixed by the sheriff for the sale thereof, or for twenty days after the seizure, or allows an execution against his lands to remain unsatisfied for nine months after it has been placed in the sheriff's hands, the proceedings hereinafter authorized may be taken by other creditors or claimants in respect of debts which are overdue.

When sale occurs.

(2) When a sale has taken place under an execution the proceedings hereinafter authorized may be taken by any creditor of the execution debtor even though his claim is not then due. R.S.O. 1937, c. 126, s. 6.

Affidavit of creditor.

7.—(1) An affidavit (Form 2) of the debt and the particulars thereof may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts.

(2) Prior to or simultaneously with the filing with the clerk of the county court of the affidavit, there shall be filed with him a certificate of the sheriff, or an affidavit, showing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Act.

Filing
affidavit or
certificate.

(3) The claimant shall serve on the debtor one of the duplicates and a notice (Form 3).

Service on
debtor.

(4) Where the affidavit and notice are to be served out of Ontario, the judge shall by order fix the time after which the next step may be taken by the claimant as hereinafter provided. R.S.O. 1937, c. 126, s. 7.

Service out
of Ontario.

8.—(1) An execution debtor may give notice in writing to the sheriff that any claims to be served upon him may be served upon a solicitor in Ontario, whose name and address shall be given, or by mailing the same to an address stated in the notice.

Notice by
debtor of
address for
service.

(2) The sheriff shall thereupon enter the notice in the book mentioned in subsection 1 of section 5, and so long as any execution which was in the sheriff's hands at the time the notice was given shall remain in his hands, shall repeat such entry immediately below any entry (Form 1) made in respect of the execution, unless the notice is revoked in writing, in which case the entry thereof shall be marked "revoked".

Entry of
notice.

(3) So long as the notice is not revoked the affidavit of claim and notice (Form 3) may, where a solicitor is named, be served upon an execution debtor by serving the same upon the solicitor, or, if mailing is required, then by mailing the same by registered post to the address in the notice given by the execution debtor.

Service at
address.

(4) Where the notice (Form 3) served on a debtor does not state some place in or within three miles of the county town of the county in which the proceedings are being taken, at which service may be made upon the claimant, or does not give the name and address of some solicitor in Ontario who may be served on the claimant's behalf, service of any notice, paper or document may be made upon the claimant by mailing the same by registered post addressed to the claimant at the county town.

Service by
mail.

(5) The claimant shall file with the clerk of the county court of the county, the sheriff of which has the execution, one of the duplicate affidavits of claim, and a copy of the notice with an affidavit of service thereof (Form 4).

Filing
affidavit.

Service
generally.

(6) The affidavit and the notice shall, where practicable, be personally served upon the debtor; but if it is made to appear to the judge that the claimant is unable to effect prompt personal service, the judge may order substitutional or other service, or may direct some act to be done which shall be deemed sufficient service. R.S.O. 1937, c. 126, s. 8.

Certificate
where claim
not disputed.

9.—(1) Where the claim is not contested in the manner hereinafter mentioned, after ten days from the day of service, or after the time mentioned in the order provided for by subsection 4 of section 7, as the case may be, on the application of the claimant and his filing proof of due service of the affidavit and notice, or where the claim is contested, upon the determination of the dispute in favour of the claimant, either in whole or in part, the clerk of the county court shall deliver to the creditor a certificate (Form 5) and where the claim is disputed as to a part only, the claimant may elect, by a writing filed with the clerk, to abandon such part and shall be entitled to a certificate as to the residue.

Delivery to
sheriff and
effect of
certificate.

(2) Upon delivery of the certificate to the sheriff the claimant shall be deemed to be an execution creditor within the meaning of this Act, and shall be entitled to share in any distribution as if he had delivered an execution to the sheriff, and the certificate shall bind the lands and goods of the debtor in the same manner as an execution, subject, however, to the debt being afterwards disputed by a creditor as hereinafter provided.

In case of
interpleader.

(3) For the purpose of interpleader proceedings the certificate shall be deemed to be an execution.

Address for
service to be
endorsed.

(4) If the certificate is obtained by a solicitor his name and address shall be endorsed thereon, and if obtained by the claimant in person there shall be endorsed thereon a statement of some place in, or within three miles of the county town of the county in which the proceedings are being taken, at which service may be made upon him, and, in default thereof, service of any notice, paper or document may be made upon the claimant by mailing the same by registered post addressed to him at the county town.

Further
levy.

(5) On receiving the certificate the sheriff shall make a further seizure of the property of the debtor to the amount of the debt so claimed, and the sheriff's fees, and so from time to time in case further certificates are received.

Time of
remaining
in force.

(6) A certificate shall remain in force for three years from the date thereof but may from time to time be renewed in the same manner as an execution.

(7) Notwithstanding the expiry of an execution or certificate before the termination of the month during which a notice of money having been levied or received is required to be entered, the execution or certificate, as to any money levied or received during such month, shall be deemed to be in full force and effect. R.S.O. 1937, c. 126; s. 9.

10.—(1) The claim may be contested by the debtor or by a creditor of the debtor.

(2) Where the debtor contests the claim, he shall file with the clerk an affidavit stating that he has a good defence to the claim, or to a specified part of it on the merits, but the judge may dispense with the affidavit on terms or otherwise.

(3) The debtor shall file the affidavit and serve upon the claimant a copy thereof within 10 days after service upon him of the affidavit of claim and the notice, or within the time mentioned in the order provided for by subsection 4 of section 7 as the case may be, or within such further time as the judge may allow.

(4) Where the contestation is by a creditor, he shall file with the clerk an affidavit to the effect that he has reason to believe that the debt claimed is not really and in good faith due from the debtor to the claimant; but the judge may dispense with the affidavit on terms or otherwise.

(5) Notice of contestation, whether by the debtor or by a creditor, together with a copy of the affidavit, if any, shall be served upon the claimant within five days after filing the affidavit, or after the order of the judge if the affidavit is dispensed with.

(6) The affidavit by a creditor may be filed, and a certificate thereof delivered to the sheriff, at any time before distribution is made, and the sheriff shall forthwith give notice of the receipt of such certificate to the claimant.

(7) The affidavit of the debtor or other contestant shall have endorsed thereon a statement of some place, in or within three miles of the county town of the county in which the proceedings are being taken, at which service may be made upon him, or the address of a solicitor in Ontario who may be served on his behalf, and in default thereof, service of any notice, paper or document may be made upon the debtor or contestant by mailing the same by registered post addressed to him at the county town. R.S.O. 1937, c. 126, s. 10.

Service on
Toronto
agent.

11. Where the address of a solicitor is given for service which is not within three miles of the county town where the proceedings are carried on, service may be made upon him by serving his agent in Toronto. R.S.O. 1937, c. 126, s. 11.

Distribution
in case of
contestation.

12.—(1) Where a claim is contested by a creditor after a certificate has been placed in the sheriff's hands, the sheriff unless the judge otherwise orders, shall levy as if such contestation had not been made, and shall, until the determination of the contestation, retain in the bank the amount which would be apportionable to the claim if valid, and shall, as soon after the expiry of the month as is practicable, distribute the residue of the money made among those entitled.

Application
for allow-
ance of
claim.

(2) The claimant whose claim is contested may apply to the judge for an order allowing his claim and determining the amount, and if he does not make such application within eight days after receiving notice of the contestation or within such further time, if any, as the judge may allow, he shall be taken to have abandoned his claim.

When
contest is
not in good
faith.

(3) Where the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith, any other creditor may apply for an order permitting him to intervene in the contestation. R.S.O. 1937, c. 126, s. 12.

Trial of
contestation.

13.—(1) The judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried with or without a jury in any court and in any county for the determination thereof, and make such order as to the costs of the proceedings as he may deem just.

Where
sum in
controversy
exceeds \$400.

(2) Where the sum in controversy appears to be over \$400 exclusive of costs, the judge shall direct that the action be brought or the issue tried in the Supreme Court, and subject to any order which that court or a judge thereof may make in that behalf, shall name the county in which the trial is to take place.

Proceedings
where issue
directed.

(3) Where an issue is directed, the trial shall take place and all proceedings subsequent thereto shall be the same as if it had been an action in the court in which it is ordered to be tried. R.S.O. 1937, c. 126, s. 13.

Production,
examination,
etc.

14. The same proceedings may be had for the production of documents and for the examination of parties or others, either before or at the trial, as may be taken in an ordinary

action, and such proceedings may also be taken before the application to the judge, and as a foundation therefor. R.S.O. 1937, c. 126, s. 14.

15.—(1) The clerk of the county court shall keep a book ^{Clerk to keep book of record.} in which, before giving a certificate or issuing an execution for a claim, he shall enter the following particulars with reference to every claim in respect of which he gives a certificate or issues an execution:

1. The name of the claimant, and of the debtor.
2. The date of the entry.
3. The amount of the debt, exclusive of costs.
4. The amount of costs.
5. If the proceedings have been set aside, that fact, and shortly the reason therefor.

(2) The entry shall, subject to this Act, have the effect ^{Effect of entry.} of and be a final judgment of the court for the debt and costs.

(3) The clerk shall index the entries in a book, alphabetically ^{Index.} under the names of the debtors.

(4) Where the original papers are lost or destroyed, a copy ^{Copy of entry as evidence.} of the entry shall be evidence of the matters therein set forth. R.S.O. 1937, c. 126, s. 15.

16. A creditor who has recovered a judgment in a division ^{Division court judgment creditors.} court against the debtor may deliver to the sheriff a certificate, under the hand of the clerk and the seal of the division court, of the amount of his judgment and of the costs to which he is entitled, and the certificate so delivered shall have the same effect, for the purposes of this Act, as if the creditor had delivered to the sheriff an execution from a county court. R.S.O. 1937, c. 126, s. 16.

17. Where a creditor has taken in one county the prescribed ^{Establishing claim in another county.} proceedings in respect of his claim and desires to establish his claim for the purposes of this Act in another county, he may do so by obtaining from the clerk of the county court of the county first mentioned another certificate (Form 5), and delivering the same to the sheriff of such other county, and the delivery of the certificate to the sheriff shall have the same effect in such other county from the time of the delivery thereof as if the certificate had been issued by the clerk of

the county court of such other county upon the proceedings therein. R.S.O. 1937, c. 126, s. 17.

Executions
may issue to
any county.

18. A creditor entitled to obtain a certificate from the clerk of a county court may also sue out an execution into any county in the same manner as on an ordinary judgment; but this shall not prejudice the right of any other creditor to contest the claim of the first-mentioned creditor under this Act. R.S.O. 1937, c. 126, s. 18.

Effect of
decision
after
contestation.

19.—(1) Where a claim is contested in one county, the decision thereon shall, as between the parties to the contestation, determine the amount of the claim for the purposes of this Act and in all other counties in which the claim is filed, and the certificate of the clerk of the county court of the county in which the contestation has taken place as to the result thereof shall be sufficient evidence of the decision.

Fee for
certificate
of result.

(2) Upon payment of a fee of 50 cents the certificate shall be granted to any party to the proceedings who applies therefor. R.S.O. 1937, c. 126, s. 19.

Effect of
payment or
withdrawal
of all
executions
and
certificates.

20.—(1) Where the debtor, without a sale by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, and no other claim has been filed, or where all executions and certificates in the sheriff's hands are withdrawn and any claims filed are paid or withdrawn, notice shall not be entered under section 5 and no further proceedings shall be taken under section 6.

Where all
not satisfied.

(2) Save as aforesaid, after a certificate has been delivered to the sheriff, the withdrawal or expiry of the execution upon which the proceedings are founded, or any stay of the same, or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the execution, shall not affect the proceedings which may be taken under this Act, and except so far as the action taken with respect to the execution may affect the amount to be levied, the sheriff shall levy upon the property of the debtor, as he would have done had the execution remained in his hands in full force for execution, and he may also take the like proceedings as he would have been entitled to take had the execution been a writ of *venditioni exponas*.

Effect of
part pay-
ment where
one debt.

(3) Where a debtor, without a sale by the sheriff, pays to him part of the amount owing in respect of an execution or certificate in his hands, and there is at the time no other execution or certificate in his hands, he shall apply the same

on the execution or certificate, and section 5 shall not apply to the money so paid. R.S.. 1937, c. 126, s. 20.

21.—(1) Where proceedings have been taken against a debtor under *The Absconding Debtors Act*, and his property has been attached under an order of attachment before an execution has been placed in the hands of the sheriff, and the money levied is the proceeds of such property or a part thereof, the cost of the order of attachment, or, if there are more than one, the one first placed in the sheriff's hands and the proceedings thereon shall have priority over the claim of all other creditors.

Priority of costs under Rev. Stat., c. 1.

(2) Where an attaching creditor is entitled to priority under subsection 1, the priority provided for by subsection 2 of section 5 shall not be given to the execution creditor. R.S.O. 1937, c. 126, s. 21.

Attaching creditor and execution creditor.

22.—(1) The clerk of the county court shall ascertain and state in his certificate the amount of the costs to which the claimant is entitled as against the debtor.

Costs of claimant.

(2) Such costs shall be the following:

Scale of costs.

1. For serving the affidavit of claim and notice, in the case of claims over \$400, on the scale of the Supreme Court, and in the case of claims exceeding \$200 and not exceeding \$400, on the county court scale, and in the case of claims of \$200 and under, on the division court scale; but if the claim does not exceed \$200 no greater fees are to be allowed than would be allowed to a division court bailiff for the service of a division court summons and mileage if the claim had been sued in the proper division court.
2. The fees paid to the clerk of the county court, on the scale for like proceedings in the county court, unless the claim does not exceed \$200, in which case his fees shall be those allowable for like proceedings in the division court.
3. Where there is no contest, \$5 for fees of a solicitor, if one is employed, unless the amount of the claim does not exceed \$200, in which case the sum of \$2 shall be allowed.
4. Where there is a contest, such additional costs as the judge may allow, to be taxed on the scale of the Supreme Court, county court, or division court,

according as the amount in dispute is within the jurisdiction of one or other of such courts.

5. The costs of obtaining an order for substitutional service or other similar order and of such service, and of or incidental to service out of Ontario, if the claim is within the jurisdiction of the division court, only such costs as would have been allowed in the division court. R.S.O. 1937, c. 126, s. 22.

Payment to
sheriff of
fund in
court.

23. Where there is in any court a fund belonging to an execution debtor, or to which he is entitled, the same or a sufficient part thereof to meet the executions and certificates in the sheriff's hands may, on the application of the sheriff or any person interested, be paid over to the sheriff, and the same shall be deemed to be money levied under execution within the meaning of this Act. R.S.O. 1937, c. 126, s. 23.

Money made
by receiver.

24. Where a judgment creditor obtains the appointment of a receiver by way of equitable execution of property of his debtor, the receiver shall pay into court the money received by him by virtue of his receivership, and the same shall be subject to section 23, but the creditor shall be entitled to be paid thereout the costs of and incidental to the receivership order and the proceedings thereon in priority to the claims of all other creditors. R.S.O. 1937, c. 126, s. 24.

Goods in
hands of
division
court
bailiff.

25.—(1) If the sheriff does not find property of a debtor leviable under the executions and certificates in his hands sufficient to pay the same in full, but finds property or the proceeds thereof in the hands of the bailiff of a division court under an execution or attachment against the debtor, the sheriff shall demand and obtain them from the bailiff, who shall forthwith deliver the same to the sheriff, with a copy of every execution and attachment in his hands against the debtor, and a memorandum showing the amount to be levied under the execution, including the bailiff's fees, and the date upon which each execution or attachment was received by him.

Penalty for
default.

(2) If the bailiff fails to deliver any of such property or the proceeds thereof he shall pay double the value of that which is retained, which may be recovered by the sheriff from him with costs of suit, and shall be accounted for by the sheriff as part of the estate of the debtor.

Costs.

(3) The costs and disbursements of the bailiff shall be a first charge upon such property or the proceeds thereof and shall be paid by the sheriff to the bailiff upon demand, after being taxed by the division court clerk.

(4) The sheriff shall distribute the proceeds among the creditors entitled to share in the distribution and the division court execution creditors shall be entitled without further proof to stand in the same position as creditors whose executions are in the sheriff's hands. R.S.O. 1937, c. 126, s. 25.

Distribution of proceeds.

26. Where the amount levied by the sheriff is not sufficient to pay the executions and certificates with costs in full, the money shall be applied to the payment rateably of such debts and costs of the creditors, after retaining the sheriff's fees, including poundage, and after payment in full of the taxed costs and the costs of the execution to the creditor at whose instance and under whose execution the seizure and levy were made where he is entitled to priority therefor under this Act. R.S.O. 1937, c. 126, s. 26.

Apportionment of money when amount insufficient to pay claim in full.

27. The sheriff, if directed by an endorsement upon a certificate, shall, in addition to the amounts named therein, levy interest on such amounts from the date of the certificate, or from the date named in that behalf in the certificate, and also \$1.35 for the disbursements on every renewal of the certificate, and where such renewal is made upon the application of a solicitor he shall also levy \$1.25 for the solicitor's costs on the renewal. R.S.O. 1937, c. 126, s. 27.

Levy of interest and costs of renewals.

28. Where money is to be distributed by the sheriff under this Act he shall not be entitled to poundage as upon separate executions or certificates, but only upon the net proceeds distributable by him at the same rate as if the whole amount had been payable upon one execution. R.S.O. 1937, c. 126, s. 28.

Sheriff's poundage.

29.—(1) Where money is made under an execution, it shall be taken to have been made under all the executions and certificates entitled to the benefit thereof, and, upon payment being made to the person entitled under any such execution or certificate, the sheriff shall endorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party who issued the execution, or by direction of the court out of which the same issued, or of a judge thereof, return the execution until the same has been fully satisfied or has expired, in which latter case the sheriff shall make a formal return of the amount made thereunder.

Application of money made under execution.

(2) The like proceedings may be taken to compel payment by the sheriff of money payable in respect to a certificate as can now be had to compel the return by the sheriff of an execution. R.S.O. 1937, c. 126, s. 29.

Compelling payment by sheriff.

Statement
to be kept in
sheriff's
office,
pending
distribution.

30. Pending the distribution the sheriff shall keep, in the book mentioned in section 5, a statement (Form 6) showing,

- (a) the amounts levied or received and the dates of levy or receipt;
- (b) each execution, certificate or order in his hands at the time of making the entry (Form 1), or subsequently received during the month, the amount thereof, for debt and costs, and the date of receipt, and such statement shall be amended from time to time as additional amounts are levied or received or further executions, certificates or orders are received. R.S.O. 1937, c. 126, s. 30.

Sheriff to
give informa-
tion as to
estate of
debtor.

31. The sheriff shall at all times without fee answer any reasonable question which he may be asked orally in respect to the property of the debtor by a creditor or any one acting on his behalf, and shall facilitate the obtaining by him of full information respecting the same and the probable dividend to be realized therefrom in his county, or any other information in connection with the property which the creditor may reasonably desire to obtain. R.S.O. 1937, c. 126, s. 31.

Distribution
by sheriff
where
amount
levied in-
sufficient to
meet all
claims.

32.—(1) Where at the time for distribution the money is insufficient to pay all claims in full, the sheriff shall first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution, with the amount due to each for principal, interest and costs.

Contents
of list.

(2) The list shall be so arranged as to show the amount payable to each creditor, and the total amount to be distributed, and the sheriff shall deliver, or send by registered post to each creditor or his solicitor, a copy of the list.

Time for
distribution.

(3) If within eight days after all the copies have been delivered or posted, or within such further time as the judge may allow, no objection is made as provided by this Act, the sheriff shall make distribution forthwith pursuant to such list.

Where objec-
tion made.

(4) If objection is made the sheriff shall forthwith distribute rateably so much of the money made, and among such persons, as will not interfere with the effect of the objection in case the same should be allowed.

Right of
contestation.

(5) Any person affected by the proposed scheme of distribution may contest the same by giving, within the time

mentioned in subsection 3, a notice in writing to the sheriff stating his objection to the scheme and the grounds thereof.

(6) The contestant shall within eight days thereafter apply ^{Order.} to the judge for an order adjudicating upon the matter in dispute, otherwise the contestation shall be taken to be abandoned.

(7) The contestant shall, within the time mentioned in subsection 6, obtain from the judge an appointment ^{Appoint-} for hearing and determining the matter in dispute.^{ment.}

(8) A copy of the appointment and a notice in writing ^{Service.} (Form 7) of the objections stating the grounds thereof shall be served by the contestant upon the debtor, unless he is the contestant, and upon the creditors or such of them as the judge may direct.

(9) The judge may determine any question in dispute in a summary manner, or may direct an action to be brought or ^{Determina-} an issue to be tried with or without a jury in any court and ^{tion of} in any county for the determination thereof, and may make ^{dispute.} such order as to the costs of the proceedings as he may deem just, and subsections 2 and 3 of section 13 shall apply.

(10) Where a claimant is held to be not entitled, or to be ^{Distribution} entitled to part only of his claim, the money retained pend- ^{of money} ing the contestation, or the portion as to which the claimant ^{retained.} has failed, shall be distributed among the creditors who would have been entitled thereto as the same would have been distributed had the claim in respect thereof not been made.

(11) Where a debtor has executed a mortgage or other charge, otherwise valid, upon his property or any part thereof ^{Rights of} after the receipt of an execution by the sheriff and before ^{subsequent} distribution, such mortgage or charge shall not prevent the ^{execution} sheriff from selling the property under any execution or cer- ^{creditors} tificate placed in his hands before distribution as if such ^{where first} mortgage or charge had not been given, nor prevent creditors ^{execution} whose executions or certificates are subsequent thereto from ^{followed by} sharing in the distribution; but in distributing the money ^{a mortgage.} realized from the sale of such property the sheriff shall deduct and pay to the person entitled thereto the amount of such mortgage or charge from the amount which would otherwise be payable out of the proceeds of such property to such subsequent creditors.

(12) In the case provided for in subsection 11 the sheriff ^{Scheme of} shall prepare a separate scheme of distribution of the proceeds ^{distribution} in above ^{case.}

of the encumbered property without reference to the mortgage or charge, and from the dividends payable according to such scheme to subsequent creditors there shall be deducted the amount of the mortgage or charge, and the amount so deducted shall be paid to the encumbrancer. R.S.O. 1937, c. 126, s. 32.

Directions by judge to avoid unnecessary parties and trials.

33. Where several creditors are interested in a contestation, either for or against the same, the judge shall give such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as he may deem just, and shall direct by whom and in what proportions any cost incurred in the contestation, or in any proceedings thereunder, shall be paid, and whether any and what costs shall be paid out of the money levied. R.S.O. 1937, c. 126, s. 33.

Direction by judge to sheriff where claim is disputed.

34.—(1) The judge may direct the sheriff to levy for an amount sufficient to cover a claim which is in dispute, or part thereof, or if it appears to the judge that it is improbable that the debtor has other sufficient property, he may direct the sheriff to retain in his hands during the contestation the share which, if the claim is sustained, will be apportionable to it, or a part thereof.

Authority of sheriff under order.

(2) An order to levy under this section shall confer on the sheriff the same authority as he would have under an execution. R.S.O. 1937, c. 126, s. 34.

Effect of decisions.

35. The decision of a judge of the county court or of the Court of Appeal on an appeal shall bind the debtor and all his creditor; unless it appears that the decision was obtained by fraud or collusion. R.S.O. 1937, c. 126, s. 35.

Deposit of money in bank.

36.—(1) Where money comes into the hands of a sheriff he shall, whenever the same amounts to \$100, deposit it in some incorporated bank designated for that purpose by order of the Lieutenant-Governor in Council, or, where there is no such bank, in some incorporated bank in which public money of Ontario is then being deposited.

Special account.

(2) The deposit shall be made in a special account in the name of the sheriff as "Trustee for the creditors of _____" (the debtor). R.S.O. 1937, c. 126, s. 36.

Attaching orders by sheriff.

37. Where there are in the sheriff's hands several executions and certificates and there does not appear to be sufficient property to pay all and his own fees, he may apply for an order attaching any debt owing to the execution debtor by any person resident in the county of such sheriff, whether

the debt is owing by such person alone or jointly with another person resident or not resident in the county, and to procure an order and to obtain and enforce payment of the debt, the sheriff may take the same proceedings as a creditor, and in such case an execution may be directed to him in the same manner as if the attachment were by a creditor, and the proceeds of the debt attached shall be dealt with and distributed in the same manner as if he had realized the same under execution. R.S.O. 1937, c. 126, s. 37.

38. If any party to a contestation or matter upon which ^{Appeal.} a judge has rendered or made a final judgment or order is dissatisfied with the judgment or order, and the same is in respect to a question involving a sum greater than \$100, he may appeal therefrom to the Court of Appeal as nearly as may be according to the practice in force in respect of appeals from a county court or a judge thereof. R.S.O. 1937, c. 126, s. 38.

39. For the purpose of giving effect to this Act and carrying out its provisions a judge shall have all the powers ^{Powers of judge.} which a county court or a judge thereof has by law for other purposes, and any proceedings erroneously taken under this Act may be set aside by the judge, with or without costs as he thinks fit. R.S.O. 1937, c. 126, s. 39.

40. Upon any proceeding before the judge the evidence ^{Evidence on proceeding before judge.} may be taken orally or by affidavit as the judge may direct. R.S.O. 1937, c. 126, s. 40.

41. In addition to the fees authorized to be paid to the clerk of the county court for his own use, the following fees ^{Fees payable to the Crown.} shall be payable to the Crown in law stamps upon all claims filed, where the amount of the claim exceeds \$200:

On an affidavit of claim where the amount claimed does not exceed \$400.....	\$.80
On every such affidavit where the claim exceeds \$400.	1.50
On every certificate of the clerk given under section 9, where the claim does not exceed \$400.....	.80
On every such certificate where the claim exceeds \$400.	1.50
On every order made by the judge allowing or disallowing a claim, where the claim does not exceed \$400.....	.50
On every such order where the claim exceeds \$400.....	1.00

R.S.O. 1937, c. 126, s. 41.

42. Except where inconsistent with this Act, *The Judicature Act* and the rules of court as to practice and procedure ^{Application of Judicature Act and rules of court.} shall apply to proceedings under this Act. R.S.O. 1937, c. 126, s. 42. ^{Rev. Stat., c. 190.}

FORM 1

(Section 5, Subsection 1; Section 30, clause b)

THE CREDITORS' RELIEF ACT

SHERIFF'S ENTRY

I have on this day in my hands for distribution under *The Creditors' Relief Act* among the creditors of *C.D.* the sum of \$....., and the distribution will be made among the creditors of the said *C.D.* entitled to share therein at the expiration of one month from this day.

Dated the.....day of....., 19.....

F.G.

Sheriff.

R.S.O. 1937, c. 126, Form 1.

FORM 2

(Section 7, Subsection 1)

THE CREDITORS' RELIEF ACT

AFFIDAVIT OF CLAIM

In the County Court of the County of

A. B......, Claimant.

and

C. D......, Debtor.

I, *A. B.*, of....., in the County of....., Merchant (*or as the case may be*), make oath and say:

1. I am the above named claimant (*or* the duly authorized agent of the claimant) in this behalf, and have a personal knowledge of the matter hereinafter deposed to.

2. The above named debtor is justly and truly indebted to me (*or* to the above named claimant) in the sum of \$....., for [*here state shortly the nature and particulars of the claim*].

Sworn, etc.

A. B.

A Commissioner, etc. (*or as the case may be*).

R.S.O. 1937, c. 126, Form 2.

FORM 3

(Section 7, Subsection 3; Section 8, Subsections 3, 4)

THE CREDITORS' RELIEF ACT

NOTICE TO BE SERVED WITH CLAIM

In the County Court of the County of.....

A. B....., Claimant.

and

C. D....., Debtor.

To the above (or within) named debtor.

Take notice that the claimant intends to file with the clerk of the County Court of the County of..... (or as the case may be) the original affidavit of claim of which a duplicate is served herewith, and that this proceeding is taken by reason of there being in the hands of the sheriff of the said county an execution against your property, and that the claimant intends to call on the sheriff to levy the amount of the said debt from your property under the authority of *The Creditors' Relief Act*.

And further take notice that if you desire to contest the said claim, or any part thereof, you must, within ten (10) days* after the service of this notice upon you, file with the clerk of the said Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim. If no such affidavit is filed the claim will be treated as admitted by you. If the affidavit is filed contesting the claim as to part only, such claim may be so treated as to the part not contested.

You are further hereby notified that unless you endorse upon such affidavit filed by you a statement of some place in, or within three miles of the county town of the said county at which service may be made upon you, or the address of some solicitor in Ontario who may be served on your behalf, service may be made upon you of any notice, paper, or document, by mailing the same by registered post addressed to you at the said county town.

Dated the.....day of....., 19.....

A. B.
Claimant.

*NOTE.—If further time is given by a judge the notice should be varied accordingly.

R.S.O. 1937, c. 126, Form 3.

FORM 4

(Section 8, Subsection 5)

THE CREDITORS' RELIEF ACT

AFFIDAVIT OF SERVICE OF CLAIM

In the County Court of the County of.....

A. B....., Claimant.
and

C. D....., Debtor.

I, G. H., of....., in the County of....., make oath and say:

1. That I did, on the.....day of....., 19....., personally serve C. D., the above named debtor (*or as the case may be*) with an original affidavit, identical with the annexed affidavit, and that there was at the time of such service, attached to (*or endorsed upon*) the said affidavit so served a true copy of the notice addressed to the debtor, now attached to (*or endorsed upon*) the said annexed affidavit.

Sworn, etc.

G. H.

A Commissioner, etc. (*or as the case may be*).

R.S.O. 1937, c. 126, Form 4.

FORM 5

(Section 9, Subsection 1, and Section 17)

THE CREDITORS' RELIEF ACT

CERTIFICATE OF PROOF OF CLAIM

In the County Court of the County of.....

A. B....., Claimant.
and

C. D....., Debtor.

I,, Clerk of the County Court of the County of....., do hereby certify:

1. That the above named claimant did on the.....day of....., 19....., file with me a claim against the above named debtor, for the sum of....., together with an affidavit of personal service thereof (*or as the case may require*) and of the notice required by *The Creditors' Relief Act*, upon the said debtor, and that it thereby appears that such service was made on the.....day of....., 19.....

2. And I further certify that the debtor has not contested the said claim (*or, has only contested the sum of.....part of the said claim (as the case may be)*, and that the claimant having abandoned such part is entitled to the residue of his claim, being the sum of..... and the further sum of.....for costs) (*Or when the claim is contested in whole or in part*, 2. That the claim has been allowed by the judge at the sum of \$....., with \$.....for costs.)

G. H.

Clerk.

R.S.O. 1937, c. 126, Form 5.

FORM 6

(Section 30)

THE CREDITORS' RELIEF ACT

SHERIFF'S STATEMENT OF EXECUTIONS, ETC., IN HIS HANDS AGAINST
C. D.

CAUSE	Proceedings.	Claim without Costs.	Costs.	Date of Receipt by Sheriff.	Amount Levied or Received.	Date of Levy or Receipt.
A. B. v C. D.	<i>Fi. fa.</i> goods and lands.	\$ 504	\$ 30	18th Feb., 19 .	\$ 500	1st May, 19 .
F. G. v C. D. & E. G.	<i>Fi. fa.</i> goods and lands.	400	20	1st March, 19 .	300	3rd May, 19 . Nothing made against E.G.
K. L. v C. D.		500	30		300	10th May, 19.
M. N. v C. D.	Creditor's Certificate	400	5	15th May, 19 .		

R.S.O. 1937, c. 126, Form 6.

FORM 7

(Section 32, Subsection 8)

THE CREDITORS' RELIEF ACT

NOTICE OF CONTESTATION OF SCHEME OF DISTRIBUTION

In the County Court of the County of.....

A. B., Claimant.

and
C. D., Debtor.

To C. D., debtor, and F. G. and M. N., claimants.

Take notice that I contest the scheme of distribution prepared by the Sheriff of the County of..... in respect of the claims of you, the said F. G. and M. N., on the following ground (*state distinctly the ground*), and a copy of the judge's appointment to adjudicate upon the matter is served herewith.

Dated the.....day of....., 19.....

X. Y.
Contestant.

R.S.O. 1937, c. 126, Form 7.

CHAPTER 79

The Credit Unions Act**1. In this Act,**Interpre-
tation.

- (a) "amendment of by-law" includes a new by-law, and a resolution revoking a by-law;
- (b) "by-laws" means by-laws approved under this Act and includes any amendment of a by-law approved under this Act;
- (c) "credit union" means a credit union incorporated under this Act;
- (d) "department" means the department of the Government presided over by the Minister;
- (e) "inspector" means inspector of credit unions appointed under this Act;
- (f) "land" includes hereditaments and chattels real, and any interest therein;
- (g) "meeting" includes a meeting of delegates appointed by members;
- (h) "Minister" means the member of the Executive Council charged with the administration of this Act;
- (i) "office" means the registered office of a credit union;
- (j) "officer" includes treasurer, secretary, member of the board of directors, manager, or servant, other than a servant appointed by the board of directors, of a credit union;
- (k) "persons claiming through a member" includes the heirs, executors, administrators and assigns of a member;
- (l) "property" includes all real and personal estate;

(m) "register" means registrar of credit unions appointed under this Act;

(n) "regulations" means regulations made under this Act. 1940, c. 7, s. 1; 1949, c. 20, s. 1.

Appoint-
ment of
officers, etc.

2. The Lieutenant-Governor in Council may appoint a registrar of credit unions, an inspector of credit unions, and such other officers, clerks and employees as he deems necessary. 1940, c. 7, s. 2.

Applications
subject to
approval of
Minister.

3. All applications under this Act shall be subject to the approval of the Minister after consideration of the compliance of the application with this Act and of all circumstances connected therewith, and the Minister or any officer of the department to whom an application is referred may, for the purpose of any inquiry into such circumstances and the sufficiency and regularity of the application, take evidence in writing under oath or affirmation. 1940, c. 7, s. 3.

Application
to be by
way of
memoran-
dum of
association.

4. All applications to the Minister for incorporation, or for his approval of any act which requires his approval, shall be by memorandum of association, verified by affidavit or declaration. 1940, c. 7, s. 4.

Objects of
credit
unions.

5. Credit unions may be incorporated having for their object and purpose,

- (a) the receiving of moneys on deposit from members and as payment for shares;
- (b) the making of loans to members with or without security for provident and productive purposes;
- (c) the making of loans to other credit unions;
- (d) the depositing of moneys with and making loans to any league incorporated under section 48, provided that no credit union shall deposit with or loan to any such league an amount in excess of 25 per cent of the total assets of the credit union; and
- (e) the investing of moneys to an extent not exceeding 25 per cent of its capital, in the paid-up shares of other credit unions or of any league incorporated under section 48. 1942, c. 7, s. 1.

Number
necessary to
incorporate.

6.—(1) Any number of persons not less than 20, capable of contracting, may be incorporated as a credit union.

(2) Such persons shall sign in duplicate, before two witnesses, a memorandum of association in the prescribed form, and one copy of such memorandum, with a copy of the by-laws, shall be forwarded by registered post or otherwise delivered to the registrar, and the other, with a copy of the by-laws, shall remain on file with the credit union. 1940, c. 7, s. 6. Memorandum of association.

7. Upon receiving a memorandum of association the Minister may, in his discretion, refuse to issue a certificate of incorporation, or may issue a certificate of incorporation and give notice thereof in *The Ontario Gazette* and thereupon the credit union shall be a corporation under the name described in the certificate and notice, and all property for the time being vested in any person in trust for the credit union shall be vested in the credit union and the certificate of incorporation and the by-laws of the credit union, together with this Act, shall constitute the charter of the credit union. 1940, c. 7, s. 7. Certificate of incorporation.

8. The production of a copy of *The Ontario Gazette* containing the notice of incorporation of a credit union shall be conclusive evidence that the credit union is duly incorporated. 1940, c. 7, s. 8. Evidence of incorporation.

9. The membership of a credit union shall be limited to persons having a common bond of occupation or association or to persons within a well-defined neighbourhood or community. 1940, c. 7, s. 9. Membership.

10. Every credit union shall have a registered office to which all communications and notices shall be sent, and the credit union shall send to the registrar written notice of the location of its registered office and of every change of the location. 1940, c. 7, s. 10. Registered office of credit union.

11. A credit union may, by by-law, provide for the holding, purchasing or leasing, in its own name, of land and for the sale, exchange or leasing thereof or the erection of buildings thereon. 1940, c. 7, s. 11. Power to hold land.

12. No credit union shall be registered under a name identical with that of any other credit union or of any company or organization or under a name so nearly resembling that of any other credit union, company or organization as, in the opinion of the Minister, to be likely to deceive. 1940, c. 7, s. 12. Name.

13. The word "Limited" shall be the last word of the name of every credit union. 1940, c. 7, s. 13. "Limited" in name.

Use of words
"credit
union".

14. No person or persons shall trade or carry on business under any name or title of which the words "credit union" form a part unless the person or persons are duly incorporated under this Act. 1940, c. 7, s. 14.

Change of
name, by
Minister;

15.—(1) The Minister may at any time change the name of any credit union where he deems it to be identical with the name of any other credit union or any company or organization or so nearly to resemble any such name as to be likely to deceive, or, for any other reason to be objectionable. 1940, c. 7, s. 15 (1).

by resolu-
tion.

(2) Subject to the approval of the Minister, a credit union may by resolution approved by two-thirds of the members present at a general meeting called for that purpose, change its name. 1944, c. 13, s. 1.

Publication.

(3) Every change of name of a credit union shall be effective from the date of the publication of notice thereof in *The Ontario Gazette*, but no change of name shall affect any right or obligation of the credit union or of any member thereof, and any pending legal proceedings may be continued by or against the credit union notwithstanding the change. 1940, c. 7, s. 15 (3).

By-laws.

16. By-laws of a credit union may,

- (a) prescribe the purposes for which the profits of the credit union may be appropriated;
- (b) prescribe the maximum number of shares which may be held by a member of the credit union;
- (c) prescribe the maximum amount which may be deposited by or loaned to a member thereof;
- (d) provide for the expulsion and withdrawal of members thereof;
- (e) prescribe the form of any instrument necessary for carrying the purposes of the credit union into effect; and
- (f) provide for such other matters as may be authorized by the regulations. 1940, c. 7, s. 16.

Approval of
by-laws.

17.—(1) No by-law or amendment of a by-law shall be valid until it has been approved by the registrar, for which purpose two copies thereof, signed by three members and the

secretary, or by the president and the secretary, shall be sent to the registrar.

(2) The registrar, on being satisfied that a by-law or amendment of a by-law has been duly passed by the credit union, may approve thereof. 1940, c. 7, s. 17; 1947, c. 22, s. 1. ^{Idem.}

18. The by-laws of the credit union shall bind the credit union and every member thereof and every person claiming through a member to the same extent as if such member had subscribed his name and affixed his seal thereto and as if there were contained in such by-laws a covenant on the part of the member, his heirs, executors, administrators and assigns, to conform thereto subject to this Act. 1940, c. 7, s. 18. ^{By-laws, effect of.}

19. A copy of the by-laws of the credit union shall be delivered by the credit union to every member on demand on payment of a sum fixed by the by-laws. 1940, c. 7, s. 19. ^{Copies of by-laws.}

20. A credit union may create a capital divided into shares, and the amount thereof, the number of shares, and the payments thereon, shall be determined by its by-laws; provided that the amount of each share shall not exceed \$10. 1940, c. 7, s. 20. ^{Capital, how created;}

21. The capital of the credit union may, subject to the by-laws, be increased by subscriptions for new shares or the admission of new members, and it may be diminished by withdrawals. 1940, c. 7, s. 21. ^{how increased and diminished.}

22. Any corporation may become a member of a credit union, but no loan shall be made to any such corporation unless the loan has been approved by a joint meeting of the board of directors, credit committee and supervisory committee of the credit union. 1947, c. 22, s. 2. ^{Loans to corporations.}

23. No member shall have more than one vote, and voting by proxy shall be allowed only when shares are held by an agricultural association, a municipal body, a school board, or other corporation. 1940, c. 7, s. 23. ^{Votes.}

24. A person under the age of 21 years may, subject to the limitations of the by-laws, be a member of a credit union, and every such person may enjoy all the rights of a member, except as herein provided, and execute all instruments and give all acquittances necessary to be executed or given under the by-laws, but shall not be a trustee, manager, treasurer or a member of the board of directors, credit committee or supervisory committee of the credit union. 1940, c. 7, s. 24. ^{Members under 21.}

Register of
members
and shares.

25. Every credit union shall keep a register or list of members and shares which shall be *prima facie* evidence of any of the following matters entered therein,

- (a) the names and addresses of the members and the number of shares held by each member;
- (b) the date at which the name of any person or corporation was entered in the register or list as a member; and
- (c) the date at which any person or corporation ceased to be a member. 1940, c. 7, s. 25; 1944, c. 13, s. 2.

Recovery
of moneys
payable by
member.

26.—(1) All moneys payable by a member to a credit union shall be a debt due from the member to the credit union and shall be recoverable as such in any court of competent jurisdiction.

Credit union
to have lien
on shares.

(2) A credit union shall have a lien on the shares of any member for any debt due to it by him, and may set off any sum standing to the credit of such member on the books of the credit union, in or towards the payment of such debt. 1940, c. 7, s. 26.

Guarantee
fund.

27.—(1) Every credit union shall set aside at least 20 per cent of its yearly net profits as a guarantee fund to meet losses, and the fund shall be held as a reserve against uncollectable loans and losses, provided that where at the close of any fiscal year the amount set aside for the guarantee fund equals at least 10 per cent of the total amount received from members on deposit and as payment for shares, the directors may, subject to the approval of two-thirds of the members present at the annual meeting, direct that no moneys be set aside for the guarantee fund for the then current year. 1940, c. 7, s. 27 (1); 1944, c. 13, s. 3.

Educational
fund.

(2) A credit union may by by-law provide that, after making provision for the guarantee fund and before declaring a dividend, an amount not exceeding five per cent of the net earnings shall be set aside in a special fund which shall be used for such educational purposes as may be determined by the by-law. 1940, c. 7, s. 27 (2).

Advances to
members
only.

28.—(1) No credit union shall advance money by discount, loan or otherwise to, nor accept deposits from, any person other than members thereof.

Interest rate
on loans.

(2) Interest together with all charges and penalties shall not exceed one per cent per month on the unpaid balance of any loan. 1940, c. 7, s. 28 (1, 2).

(3) No officer or member of a committee or of the board of directors of a credit union shall borrow or have on loan an amount in excess of the aggregate of his fully paid-up shares and deposits unless such loan is approved by a two-thirds majority at a joint meeting of the board of directors, credit committee and supervisory committee. 1940, c. 7, s. 28 (3); 1942, c. 7, s. 2.

Loans to officers, etc.

29.—(1) Every credit union shall at its first general meeting elect from its members a board of directors of at least five members who shall hold office for such term as the by-laws may prescribe and until their successors are elected.

Board of directors.

(2) The board of directors shall perform such duties as may be prescribed by this Act, the regulations, and the by-laws of the credit union. 1940, c. 7, s. 29.

Duties of board.

30.—(1) Every credit union shall at its first general meeting elect from its members a credit committee of at least three members, who shall not be members of the board of directors or the supervisory committee or officers of the credit union and who shall hold office for such term as the by-laws may prescribe and until their successors are elected, provided that if the by-laws so provide the president shall be *ex officio* a member of the credit committee.

Credit committee.

(2) It shall be the duty of the credit committee to consider all applications for loans and to approve all loans of the credit union. 1940, c. 7, s. 30 (1, 2).

Duties of committee.

(3) The credit committee may upon such terms as it may determine authorize the treasurer or manager to make loans in amounts not exceeding \$25 for periods of not exceeding one month without obtaining its approval. 1944, c. 13, s. 4.

When approval not required.

(4) The credit committee shall not approve any loan that is greater in amount than the maximum amount that may be loaned to a member as set out in the by-laws of the credit union. 1949, c. 20, s. 2.

Maximum loans not to be exceeded.

31.—(1) Every credit union shall at each annual meeting elect from its members a supervisory committee of three members, who shall not be members of the board of directors or credit committee or officers of the credit union.

Supervisory committee.

(2) The members of the supervisory committee shall hold office for such term as the by-laws may prescribe and until their successors are elected.

Tenure of office.

Duties.

(3) The supervisory committee shall, from time to time, examine and audit the books of the credit union and deposit books of the members and shall check the cash investments and securities of the credit union. 1940, c. 7, s. 31 (1-3).

Misappropriation of funds.

(4) In the event of any of the funds, securities or other property of the credit union being misappropriated or otherwise misdirected from their proper use, or in the event of any of the by-laws of the credit union being contravened by the board of directors or credit committee, or any member thereof, or by any officer or employee engaged by the board of directors, the supervisory committee shall forthwith call a general meeting of the credit union, and pending the holding of the meeting the committee may suspend any member of the board of directors or credit committee or any officer or employee engaged by the board of directors, and may appoint a member of the credit union to perform the duties of any person so suspended, until the meeting of the credit union. 1940, c. 7, s. 31 (4); 1949, c. 20, s. 3 (1).

Idem.

(5) The supervisory committee shall report to the meeting all circumstances relating to any misappropriation of funds, securities or other property or any improper diversion thereof and the reasons for any suspension, and the members of the credit union may by a vote of two-thirds of the members present at the meeting or at any adjournment thereof, dismiss from office any person so suspended and when the members of the credit union do not so vote to dismiss from office any person so suspended, the person shall be reinstated forthwith. 1949, c. 20, s. 3 (2).

Annual report.

(6) The supervisory committee shall submit a written report to each annual general meeting. 1940, c. 7, s. 31 (6).

Payments to officers.

32. All payments to officers of the credit union for services rendered shall be approved by the board of directors. 1940, c. 7, s. 32.

Bond of officer.

33. Every officer or employee engaged by the board of directors of a credit union who receives or has charge of money shall before assuming the duties of his office furnish a bond for the due accounting of moneys received by him and the faithful performance of his duties, with such sureties and in such form and amount as the board of directors may determine. 1940, c. 7, s. 33; 1949, c. 20, s. 4.

Investment of funds.

34.—(1) The funds of a credit union that are not required for the purposes of section 5 or for the guarantee fund shall be invested,

(a) in any investment that is authorized by *The Companies Act* for the investment of the funds of a joint stock insurance company; or Rev. Stat., c. 59.

(b) in any investment other than those set out in section 5 where such investment is approved by a resolution passed by a two-thirds majority of those present at a meeting of the members called for the purpose, but in no case shall a resolution under this clause affect more than 10 per cent of the share capital and deposits of the credit union and in no case shall the aggregate of all investments of the credit union under this clause exceed 25 per cent of its share capital and deposits.

(2) Any investment made by a credit union before the 7th day of June, 1949, that does not comply with this section may be retained by the credit union but shall be disposed of at the first opportunity and in no event shall be renewed. 1949, c. 20, s. 5. Existing investments.

(3) A credit union which has invested any part of its funds in the shares or on the security of any other corporation may appoint as proxy any one of the members of such credit union. Representation by proxy.

(4) The proxy shall, during the continuance of his appointment, be deemed to be the holder of any such shares for all purposes except the transfer of such shares, or the giving of receipts for any dividend thereon. 1940, c. 7, s. 34 (2, 3). Extent of power of proxy.

35. The board of directors of a credit union may pass resolutions for borrowing money, provided that nothing in this section or sections 36 to 38 shall apply to loans made upon the security of promissory notes, bills of exchange, or other securities of a commercial nature issued in the ordinary course of business. 1944, c. 13, s. 5. Borrowing money.

36. A credit union shall not borrow an amount in excess of 50 per cent of the capital, deposits and surplus of the credit union. 1940, c. 7, s. 36. Amount to be borrowed.

37. No resolution referred to in section 35 shall take effect until it has been confirmed by a vote of not less than two-thirds of the members present or represented by proxy at a general meeting of the credit union, duly called for considering the resolution, by notice specifying the terms of the resolution to be confirmed, or until unanimously sanctioned in writing by the members of the credit union; provided that no confirmation of any such resolution shall be required when the total Must be by two-thirds vote.

sum borrowed does not exceed 25 per cent of the capital, deposits and surplus of the credit union. 1940, c. 7, s. 37.

Mortgaging
assets.

38.—(1) The board of directors may charge, hypothecate, mortgage or pledge the real or personal property, rights and powers, undertaking, franchises, including book debts, to secure any liability of the credit union authorized by resolution and confirmed as herein provided.

Effect of
receipt.

(2) No assignee, mortgagee, pledgee, chargee or hypothec holder shall be bound to inquire as to the authority for any such assignment, mortgage, pledge, charge or hypothec by a credit union, and the receipt of the credit union shall be a discharge for all moneys arising from or in connection with such assignment, mortgage, pledge, charge, hypothec or other security. 1940, c. 7, s. 38.

Member
may appoint
successor.

39.—(1) A member of a credit union having on deposit and as payment for shares an amount not exceeding \$500 may, by a writing signed by him and deposited with the credit union, nominate any person to receive the money at his death.

Substitution
of nominee
on death of
member.

(2) Upon receiving an affidavit of the death of a member the directors of the credit union may substitute on the books of the credit union the name of the nominee in place of the deceased member or may immediately pay to the nominee the amount due to the deceased member. 1944, c. 13, s. 6, *part*.

Disposition
of moneys
of intestate
member.

40.—(1) If a member of a credit union having on deposit and as payment for shares an amount not exceeding \$500 dies intestate without making a nomination as provided in section 39, the amount may, without letters of administration being taken out, be paid to the person who appears to the directors to be entitled thereto under *The Devolution of Estates Act* upon receiving an affidavit of the death and intestacy and that the person claiming is so entitled.

Rev. Stat.,
c. 103.

Payment by
mistake,
when valid.

(2) When the directors, after the death of a member, have paid such amount to the person who at the time appeared to be entitled thereto under the belief that the member died intestate without having appointed any nominee, the payment shall be valid and effectual with respect to any demands from any other person as next of kin or as the lawful representative of the deceased against the credit union, but the next of kin or representative shall be entitled to recover the amount of such payment from the person who received it. 1944, c. 13, s. 6, *part*.

Annual
meetings.

41.—(1) The annual meeting of the credit union shall be held at such time and place as the by-laws of the credit union

provide, and in default of provisions in that behalf the annual meeting shall be held at the registered office of the credit union on the fourth Wednesday in January.

(2) At such meeting the board of directors shall place ^{Business} before the credit union, ^{to be dealt with.}

- (a) a balance sheet made up to date not more than three months before such annual meeting;
- (b) a statement of income and expenditure for the financial period ending upon the date of such balance sheet;
- (c) the report of the supervisory committee; and
- (d) such further information respecting the credit union's financial position as the by-laws require. 1940, c. 7, s. 41 (1, 2).

(3) Every balance sheet shall be drawn up so as to dis- ^{What} tinguish at least the following classes of assets and liabilities, ^{balance} ^{sheet to} ^{show.} namely,

- (a) cash;
- (b) debts owing to the credit union from members;
- (c) land and buildings;
- (d) debts owing by the credit union secured by mortgage or other lien upon the property of the credit union;
- (e) debts owing by the credit union but not secured;
- (f) amount received on shares;
- (g) amount held on deposit. 1940, c. 7, s. 41 (3); 1944, c. 13, s. 7.

42. Every credit union shall without charge supply to ^{Annual} every member or other person interested in the funds of the ^{statement} credit union, upon application therefor, or as provided by ^{to be given} the by-laws of the credit union, a copy of the last annual ^{to members.} balance sheet and return of the credit union. 1940, c. 7, s. 42.

43.—(1) Save as provided in this Act, no member or other ^{Inspection} person shall have any right to inspect the books of the credit ^{of books.} union.

By-laws as to inspection.

(2) Any member or other person having an interest in the funds of the credit union may inspect his own account and the books containing the names of the members at all reasonable hours at the registered office of the credit union, or at such other place where they are kept, subject to such conditions as to time and manner of such inspection as may be prescribed by the by-laws.

As to loan or deposit accounts of members.

(3) The credit union may, by by-law, authorize the inspection of any of its books therein mentioned, in addition to the books containing the names of members, under such conditions as are thereby prescribed, and no person, unless he is an officer of the credit union or is specifically authorized by a resolution thereof, shall have the right to inspect the loan or deposit account of any other member without his written consent. 1940, c. 7, s. 43.

Disputes.

44. Every dispute not of a pecuniary character, and every dispute of a pecuniary character in which the amount involved or in dispute does not exceed \$100, between a member of a credit union or any person aggrieved who has for not more than six months ceased to be a member of the credit union, or any person claiming through any such member or person, or claiming under the by-laws of the credit union, and the credit union or any officer thereof, shall be decided in the manner prescribed by the by-laws of the credit union where the by-laws provide therefor. 1940, c. 7, s. 44.

Examination by inspector; special meeting.

45.—(1) Upon the application of one-tenth of the members of a credit union, or of 100 members in the case of a credit union having more than 1,000 members, the Minister may,

(a) direct the inspector to examine into and report upon the affairs of the credit union;

(b) call a special meeting of the credit union.

Notice.

(2) Every such application shall be supported by such evidence as the Minister may require, and the Minister may require that notice in such form and manner as he may prescribe shall be given to the credit union or the members thereof.

Security for costs.

(3) The Minister may require the applicant to furnish security for the costs of the inspection or meeting.

Expenses, how defrayed.

(4) All expenses of and incidental to the inspection or meeting shall be defrayed by the persons applying therefor

or out of the funds of the credit union, or by the members or officers or former members or officers of the credit union, as the Minister may direct.

(5) The Minister may direct the time and place at which the special meeting shall be held and may prescribe the matters which shall be discussed and determined at the meeting, and all the provisions of the by-laws of the credit union relating to general meetings shall apply to the special meeting. 1940, c. 7, s. 45. Special meeting.

46. A credit union shall on or before the 1st day of March in each year deliver to the inspector, in duplicate, in the form prescribed by the inspector, an audited statement of its receipts and expenditures, assets and liabilities, and such statement shall also contain such other information as the inspector may require. 1949, c. 20, s. 6. Annual statements.

47.—(1) Every credit union shall furnish the inspector with such statements with respect to its business, finances and other affairs and such other information as he may require. Information for Inspector.

(2) The statement and any other information shall be certified by the supervisory committee and shall be verified by the affidavit of the president, and the treasurer or manager. Verification.

(3) The inspector or any person authorized by the Minister may inspect and examine into the conditions and affairs of any credit union and shall have access to all books, records and other documents and may make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its liabilities as they become due, and whether or not it has complied with this Act, and the officers and employees shall facilitate such inspection and examination. Inspection.

(4) The inspector or any person authorized by the Minister may examine under oath officers, employees, members and members of any board, of any credit union in order to obtain any information which he deems necessary for the purpose of any inspection or examination, and upon such inspection or examination the inspector or any person so authorized shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. Examination under oath.

(5) The inspector may, and at the request of the Minister shall, prepare from statements filed by the credit unions and from inspections and examinations, a report showing particulars of the business of each credit union and every such report may be printed and if printed shall be published forthwith. 1940, c. 7, s. 47. Rev. Stat., c. 308. Reports.

Objects
of incor-
poration
of league.

48.—(1) Ten or more credit unions may be incorporated as a league for the object and purpose of,

- (a) protecting and advancing the credit unions which are members thereof;
- (b) encouraging and assisting educational and advisory work relating to credit unions;
- (c) arranging for group bonding of credit union employees and ensuring repayment of loans made by credit unions to their members;
- (d) receiving moneys from its members either as payment on shares or as deposits; and
- (e) making loans to credit unions which are members of the league.

Signature of
president,
treasurer or
manager.

(2) The president and the treasurer or manager of each of such credit unions shall sign in duplicate, before two witnesses, a memorandum of association prescribed by the registrar, and the memorandum accompanied by the proposed by-laws shall be forwarded to the registrar.

Certificate
of incor-
poration
of league.

(3) Upon receiving the memorandum of association the Minister may, in his discretion, refuse to issue a certificate of incorporation or may issue a certificate of incorporation and give notice thereof in *The Ontario Gazette* and thereupon the league shall be a corporation under the name described in the certificate and notice, and all property, for the time being vested in any person in trust for the league, shall be vested in the league, and the certificate of incorporation and the by-laws of the league, together with this Act, shall constitute the charter of the league.

Evidence of
incorpora-
tion of
league.

(4) The production of a copy of *The Ontario Gazette* containing the notice of incorporation of the league shall be conclusive evidence that the league is duly incorporated. 1942, c. 7, s. 3, *part*.

By-laws of
league.

(5) Any league incorporated under this section may pass such by-laws as it deems advisable, but no by-law shall become operative until approved by the registrar. 1949, c. 20, s. 7.

Assessment
of members
for league.

(6) A credit union that is a member of a league may by by-law provide for a yearly assessment of each member of the credit union of an amount not to exceed 50 cents, which amounts shall be forwarded to the league to assist in its financing. 1947, c. 22, s. 3.

49.—(1) A credit union may be dissolved by consent of ^{Dissolution.} three-fourths of its members, shown by their signatures to an instrument of dissolution.

(2) The instrument of dissolution shall set forth the liabilities and assets of the credit union, the number of members and the nature of their respective interests in the credit union, the claims of creditors, if any, and the provision to be made for their payment, and the intended appropriation or division of the funds or property of the credit union unless the appropriation or division is by the instrument of dissolution to be left to the award of the registrar. ^{Contents of instrument.}

(3) A statutory declaration shall be made by the president and secretary that this Act has been complied with, and shall be sent to the registrar with the instrument of dissolution. ^{Statutory declaration.}

(4) The registrar shall cause a notice of the dissolution to be published, at the expense of the credit union, in *The Ontario Gazette* and in a newspaper having a general circulation in the district in which the registered office of the credit union is situated. 1940, c. 7, s. 49. ^{Notice of dissolution.}

50.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Minister may by order dissolve a credit union if he is satisfied that, ^{Dissolution by Minister.}

(a) the incorporation of the credit union was obtained by fraud or mistake;

(b) the credit union exists for an illegal purpose;

(c) the number of members has been reduced to less than 20;

(d) the credit union is not carrying on business or is not in operation; or

(e) the credit union has, after notice by the registrar, violated any of the provisions of this Act.

(2) The registrar shall give the credit union not less than two months notice of proposed dissolution, specifying the reason therefor and stating that, unless cause is shown to the contrary within such period, the name of the credit union will be struck off the register and the credit union dissolved. ^{Notice by registrar.}

(3) At the expiration of the time mentioned in the notice the Minister may, unless cause to the contrary is previously ^{When dissolution effective.}

shown by the credit union, strike the name of the credit union off the register, and in such case he shall publish notice thereof in *The Ontario Gazette*, whereupon the credit union shall be dissolved. 1940, c. 7, s. 50.

Settlements
in event of
dissolution.

51. In case of a dissolution of a credit union, the credit union shall nevertheless be deemed to be subsisting and to be in all respects subject to this Act so long and so far as any matter relating thereto remains unsettled, to the intent that the credit union may do all things necessary for the winding up of its affairs, and may sue and be sued. 1940, c. 7, s. 51.

Notice of
winding-up
proceedings.
R.S.C. 1927,
c. 213.

52. Where proceedings are taken under *The Winding-up Act* (Canada) in respect of any credit union, the secretary shall send notice thereof to the registrar by prepaid registered post. 1940, c. 7, s. 52.

Offences of
credit
unions,

53.—(1) Every credit union which fails to comply with any of the provisions of this Act or the regulations or which makes any return or furnishes any information, required to be made or furnished under this Act or the regulations, containing any false statement, shall be guilty of an offence.

of officers
and others.

(2) Every offence by a credit union under this Act shall be deemed to have been also committed by every officer of the credit union who is bound by the by-laws thereof to fulfil the duty whereof such offence is a breach, or, if there be no such officer, then by every member of the board of directors unless such member is found to have been ignorant of, or to have attempted to prevent the commission of such offence, and every act or default under this Act constituting an offence, if continued, shall constitute a new offence in every week during which it continues.

Penalty for
offences.

(3) Any credit union or other person guilty of an offence under this Act shall be liable on summary conviction to a penalty of not less than \$20 and not more than \$200 for every such offence and, in the case of a person other than a credit union, in default of payment such person shall be liable to imprisonment for a term of not more than three months. 1940, c. 7, s. 54.

Regulations.

54. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing the procedure and forms to be used under this Act;
- (b) prescribing the fees payable for incorporation, inspection and supervision of credit unions and for the

filing of any memorandum of association, return or other document required or permitted to be filed under this Act;

- (c) controlling and regulating leagues of credit unions;
- (d) governing the management and control of credit unions;
- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1940, c. 7, s. 55; 1949, c. 20, s. 8; 1950, c. 79, s. 7 (1).

55.—(1) This Act, except in so far as it is otherwise Application of Act. expressly declared, shall apply to,

- (a) co-operative credit societies incorporated under *The Co-operative Credit Societies Act*, being chapter 64 of the Statutes of Ontario, 1922;
- (b) co-operative credit societies and credit unions incorporated under *The Co-operative Credit Societies Act*, being chapter 258 of the Revised Statutes of Ontario, 1937, or *The Credit Unions Act*, being chapter 258 of the Revised Statutes of Ontario, 1937, as amended by chapter 12 of the Statutes of Ontario, 1939; and
- (c) credit unions incorporated under this Act.

(2) Every co-operative credit society incorporated under *The Co-operative Credit Societies Act*, being chapter 64 of the Statutes of Ontario, 1922, or *The Co-operative Credit Societies Act*, being chapter 258 of the Revised Statutes of Ontario, 1937, shall for the purposes of this Act be deemed a credit union. 1940, c. 7, s. 56. Certain societies deemed credit unions.

CHAPTER 80

The Crown Administration of Estates Act

1. Where in the case of any person dying intestate or Where administration may issue to Public Trustee. in respect of the interest of His Majesty administration may be rightfully granted to his nominee, any competent court, upon application of the Public Trustee, may grant administration to the Public Trustee for the use and benefit of His Majesty. R.S.O. 1937, c. 116, s. 1.

2. Where any person dies in Ontario intestate without leaving any known next of kin living in Ontario or where the only next of kin are infants and there is no near relative in Ontario Administration where intestate leaves no known adult next of kin in Ontario. willing and competent to apply for a grant of administration or to nominate some person to apply for the same, the Public Trustee may apply for letters of administration, general or limited, of the estate of such person and any competent court upon the application may grant administration to the Public Trustee for the use and benefit of His Majesty or of such persons as may ultimately appear to be entitled thereto, but where there are adult next of kin residing out of Ontario administration may be granted to the nominee of such next of kin at the discretion of the court. R.S.O. 1937, c. 116, s. 2.

3.—(1) Notice of every application for letters of administration of the estate of a person who has died in Ontario Notice to Public Trustee. intestate and without leaving any known adult next of kin living in Ontario shall be given by the registrar of the surrogate court to the Public Trustee before the issue of letters of administration to any other person, and the Public Trustee may, within 30 days after the receipt of the notice, apply for a grant of letters of administration as provided in section 2.

(2) Where the Public Trustee consents, letters of administration may issue to the applicant without waiting for the expiry of 30 days. Letters of administration within 30 days. R.S.O. 1937, c. 116, s. 3.

4. It shall not be necessary for the Public Trustee to give Security dispensed with. security for the due administration of the estate, but he shall have all the rights and powers of and be subject to all the liabilities and duties imposed on an administrator. R.S.O. 1937, c. 116, s. 4.

Power to sell
the real
estate of the
intestate.

5. Where administration is granted to the Public Trustee the Lieutenant-Governor in Council may direct the sale, by auction or private sale, of any real estate or interest therein in Ontario to which the intestate died entitled, and the Public Trustee shall thereupon be authorized to sell in accordance with the directions of the Order in Council the whole, or any part of the real estate or interest, and to convey the same to the purchaser, and every conveyance by the Public Trustee shall be as valid and effectual as if the deceased were alive at the time of the making thereof and had executed the same. R.S.O. 1937, c. 116, s. 5.

Rights of
relations
after the
issue of ad-
ministration.

6. Where subsequently to the grant of administration it is alleged or ascertained that the deceased has relatives or did not die intestate, the Public Trustee, subject to the direction of the Lieutenant-Governor in Council, may exercise all or any of the powers by this Act conferred until some person is appointed by a court of competent jurisdiction to deal with the estate of the deceased, and notwithstanding such appointment, any sale made in pursuance of this Act may be completed by the execution by the Public Trustee of a conveyance, and until the revocation of the letters granted the Public Trustee may exercise fully all the powers vested in him as administrator. R.S.O. 1937, c. 116, s. 6.

Inquiry as to
the rights of
His Majesty.

7. Where administration is granted under this Act, the Public Trustee may apply to the Supreme Court for an order for the making of such inquiries as may be necessary to determine whether or not His Majesty is entitled to any portion of the estate of the deceased by reason of the deceased having died intestate and without heirs or next of kin, or otherwise, and any judgment pronounced upon such inquiry shall, unless reversed on appeal, or varied upon a substantive application to the court, be final and conclusive. R.S.O. 1937, c. 116, s. 7.

Recovery by
Crown of real
estate of
persons dy-
ing intestate
and without
heirs.

8. Where a person dies in possession of or entitled to real estate in Ontario intestate as to such real estate without any known heirs, the Public Trustee without obtaining letters of administration may take possession of such real estate and if necessary may bring an action, either in his own name, on behalf of His Majesty, or in the name of His Majesty, to recover possession of such real estate and shall be entitled to judgment and to recover possession, unless the person claiming adversely shows that the deceased did not die intestate as to such real estate, or that he left heirs, or that he or some other person is entitled to such real estate. R.S.O. 1937, c. 116, s. 8.

9. Where a person has died intestate in Ontario and administration has been granted to some person not one of the next of kin, and it is doubtful whether the intestate left any next of kin him surviving, or there are no known next of kin resident in Ontario, the Public Trustee may apply to the Supreme Court for an order requiring the administrator to account for his dealings with the estate, and may question in such proceedings the validity of any release or settlement with any alleged next of kin, and any competent court may revoke such administration, and grant administration to the Public Trustee. R.S.O. 1937, c. 116, s. 9.

Application by Public Trustee to compel an account by administrator in certain cases.

10. Money realized from estates to which the Public Trustee is administrator under this Act or which he has recovered under section 8, shall be kept in such bank or invested in such manner as the Lieutenant-Governor in Council may direct, and all such money which has been unclaimed for 10 years from the death of the intestate shall be paid into the Consolidated Revenue Fund. R.S.O. 1937, c. 116, s. 10.

Disposition of moneys.

11. Any person proving title to such money shall be entitled to receive the same with interest at such rate as the Lieutenant-Governor in Council may direct. R.S.O. 1937, c. 116, s. 11.

Interest on money claimed.

12. Any person claiming to be entitled to any such estate or to any interest therein or to any part of the proceeds thereof may apply to the Supreme Court for an order declaring his rights in respect thereto, and the court may direct such inquiries as may be necessary to determine the same, and may finally adjudicate thereon, but no application under this section shall be entertained unless security for costs is given by the applicant if the Public Trustee demands the same. R.S.O. 1937, c. 116, s. 12.

Remedy of persons having claims upon the estate.

13. The Public Trustee may deduct from the money received on account of any estate all disbursements made by him in respect to inquiries which he may have made before taking out letters of administration, as well as disbursements otherwise made by him in respect to the estate and a commission for his services not exceeding five per cent of all moneys received by him as administrator. R.S.O. 1937, c. 116, s. 13.

Right of Public Trustee to disbursements and commission.

14.—(1) After having given the notice provided for by *The Trustee Act*, and notwithstanding that the 10 years limited by section 10 have not elapsed, the Public Trustee may pay any money remaining in his hands unclaimed into the Consolidated Revenue Fund, or may pay the same or

Distribution of assets by Public Trustee.

Rev. Stat., c. 400.

Rev. Stat.,
c. 116.

any part thereof, or assign any personal property remaining in his hands, in accordance with any direction of the Lieutenant-Governor in Council, made under *The Escheats Act*.

Non-liability
of His
Majesty
and the
Province.

(2) In such case no claim shall be maintained against His Majesty or the Province in respect of any money or personal property paid over or assigned to any person under *The Escheats Act*, or under this Act; but this shall not prejudice the right of a creditor or claimant to follow such money, property or proceeds into the hands of the person who may have received the same under the authority of an Order in Council. R.S.O. 1937, c. 116, s. 14.

CHAPTER 81

The Crown Attorneys Act

1. The Lieutenant-Governor in Council may appoint a Crown attorney for each county and for each provisional judicial district. 1949, c. 21, s. 1.

2. The Lieutenant-Governor in Council may appoint one or more assistant Crown attorneys for any county or provisional judicial district who shall act under the direction of the Crown attorney and when so acting shall have the like powers and perform the like duties as the Crown attorney. 1949, c. 21, s. 2.

3. No person shall be appointed a Crown attorney or assistant Crown attorney or act in either of such capacities who is not a member of the Bar of Ontario. 1949, c. 21, s. 3.

4.—(1) Where the Crown attorney is unavoidably absent or ill and there is no assistant Crown attorney, a judge of the county or district court for the county or district may appoint a member of the Bar of Ontario to act for the Crown attorney during his absence or illness.

(2) Notice of the appointment containing a statement as to the cause thereof shall be sent by the judge to the Attorney-General forthwith after making the appointment.

(3) The Lieutenant-Governor in Council may annul any such appointment at any time.

5.—(1) Except in the County of York every Crown attorney shall be *ex officio* clerk of the peace for the county or district for which he is Crown attorney.

(2) In the County of York the offices of Crown attorney and clerk of the peace may be held by different persons.

(3) Where the offices of Crown attorney and clerk of the peace are held by the same person, the duties that the clerk of the peace is required to perform in the court room during the sittings of the court of general sessions of the peace and of the county or district court judges' criminal court shall be

performed by the clerk of the county or district court. 1949, c. 21, s. 5.

Remuneration.

6.—(1) Unless it is otherwise provided by the Lieutenant-Governor in Council every Crown attorney shall be entitled to the fees of his office, including the fees received from his office as clerk of the peace.

Commutation of fees.

(2) The Lieutenant-Governor in Council may commute the fees payable to a Crown attorney, including the fees receivable from his office as clerk of the peace, for a fixed annual sum, and may from time to time fix an annual allowance to cover the expenses of his office.

Assistants.

(3) Every assistant Crown attorney shall be entitled to such per diem allowance or such salary as may be fixed by the Lieutenant-Governor in Council.

Pro tem
Crown
attorneys.

(4) Every Crown attorney appointed *pro tem* by a judge of a county or district court shall be entitled to the fees of his office, including the fees receivable from his office as clerk of the peace. 1949, c. 21, s. 6.

Security.

7. Every Crown attorney shall give security for the due performance of the duties of his office and for the due payment of all moneys received by him by virtue thereof, in such sum, and with so many sureties, and in such manner and form as the Lieutenant-Governor in Council directs. 1949, c. 21, s. 7.

Oath of
office.

8. Every Crown attorney and every assistant Crown attorney, before he enters upon his duties, shall take and subscribe before a judge of the county or district court of the county or district for which he is appointed the following oath:

I swear that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of Crown attorney (*or* assistant Crown attorney) for the County (*or* District) of.....without favour or affection to any party: So help me God.

1949, c. 21, s. 8.

Prohibition.

9. No Crown attorney or assistant Crown attorney shall, by himself or through any partner in the practice of law, act or be directly or indirectly concerned as counsel or solicitor for any person in respect of any offence charged against such person under the laws in force in Ontario. 1949, c. 21, s. 9.

Duties.

10. The Crown attorney shall aid in the local administration of justice and perform the duties that are assigned to

Crown attorneys under the laws in force in Ontario, and without restricting the generality of the foregoing, every Crown attorney shall,

- (a) examine informations, examinations, depositions, ^{to examine} recognizances, inquisitions and papers connected with ^{informa-} offences against the laws in force in Ontario which ^{tions, etc.;} the magistrates, justices of the peace and coroners are required to transmit to him, and, where necessary, cause such charges to be further investigated, and additional evidence to be collected, and sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions may not be delayed unnecessarily or fail through want of proof;
 - (b) conduct, on the part of the Crown, preliminary ^{to conduct} hearings of indictable offences and prosecutions for ^{prosecutions;} indictable offences,
 - (i) at the sittings of the Supreme Court where no law officer of the Crown or other counsel has been appointed by the Attorney-General,
 - (ii) at the court of general sessions of the peace,
 - (iii) at the county or district court judges' criminal court, and
 - (iv) before magistrates in summary trials of indictable offences under the *Criminal Code* ^{R.S.C.,} (Canada), ^{1927, c. 36.}
- in the same manner as the law officers of the Crown conduct similar prosecutions at the sittings of the Supreme Court, and with the like rights and privileges, and attend to all criminal business at such courts;
- (c) where a law officer of the Crown or other counsel ^{special} has been appointed by the Attorney-General, deliver ^{Crown} to the Crown officer or other counsel all papers ^{counsel;} connected with the criminal business at the sittings of the Supreme Court before the opening of the court and, if required, be present at the court and assist the Crown officer or other counsel;
 - (d) watch over cases conducted by private prosecutors ^{cases} and, without unnecessarily interfering with private ^{brought} ^{by private} prosecutors;

individuals who wish in such cases to prosecute, assume wholly the conduct of the case where justice towards the accused seems to demand his interposition;

summary
conviction
matters;

(e) where in his opinion the public interest so requires, conduct proceedings in respect of any offence punishable on summary conviction;

government
prosecutions;

(f) when requested in writing, cause prosecutions for offences against any Act of the Legislature to be instituted on behalf of any governmental department or agency and conduct such prosecutions to judgment and to appeal, if so instructed;

summary
conviction
appeals;

(g) where in his opinion the public interest so requires, conduct appeals to the county or district court for offences punishable on summary conviction;

justices of
the peace;

(h) advise justices of the peace with respect to offences against the laws in force in Ontario;

forms;

(i) procure the necessary forms for the use of justices of the peace, and supply the same as needed, the expense of which shall be paid out of the county funds as part of the expenses connected with the administration of justice, except where such forms are supplied by the county council through the clerk of the county or the clerk of the peace; and

bail.

(j) where a prisoner is in custody charged with or convicted of any offence and an application is made for bail, inquire into the facts and circumstances and satisfy himself as to the sufficiency of the surety or sureties offered, and examine and approve of the bail bonds where bail is ordered. 1949, c. 21, s. 10.

Magistrates
and justices
to deliver
informa-
tions, etc.,
to Crown
attorney.

11. Where a person is committed for trial to answer a criminal charge the committing magistrate or justice of the peace shall deliver or cause to be delivered without delay to the Crown attorney the informations, depositions, examinations, recognizances and papers connected with the charge, and the Crown attorney shall be the "proper officer of the court by which the accused is to be tried" within the meaning of the committal for trial provisions of the *Criminal Code* (Canada) and, where an information has been laid or complaint made before a justice of the peace, whether proceedings have been taken thereon or not, the justice shall deliver to the Crown attorney all papers connected therewith on being by him required so to do. 1949, c. 21, s. 11.

R.S.C.,
1927, c. 36.

12. Every Crown attorney, except a Crown attorney on fees, shall collect all fees payable to him as Crown attorney and clerk of the peace, other than those payable by the Province either directly or by way of refund to the county, and remit the same to the Inspector of Legal Offices by cheque payable to the Treasurer of Ontario, quarterly on the 1st day of January, April, July and October in each year, together with a statement showing the fees collected. 1949, c. 21, s. 12.

Collection
and pay-
ment over
of fees.

13. Every Crown attorney and clerk of the peace shall, on or before the 31st day of January in every year, make to the Inspector of Legal Offices a return, verified by statutory declaration, of the aggregate amount of the fees and emoluments of his office during the preceding year, up to and including the 31st day of December. 1949, c. 21, s. 13.

Annual
returns.

14.—(1) The City of Toronto and the County of York shall have one Crown attorney, who shall be known as the Crown Attorney for the City of Toronto and the County of York, and such assistant Crown attorneys as may be deemed necessary by the Lieutenant-Governor in Council.

Toronto
and York.

(2) The Corporation of the City of Toronto shall provide suitable office accommodation, furniture and stationery, with light and heat, for the Crown attorney, his assistants and staff, to be approved by the Attorney-General, and the expenses so incurred shall be borne and apportioned and paid as part of the expenses of the administration of justice in the County of York. 1949, c. 21, s. 14.

Idem.

15. The Lieutenant-Governor in Council may make regulations,

Regulations.

- (a) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with prosecutions instituted on behalf of any governmental department or agency, and providing for the payment and disposition thereof;
- (b) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with appeals to the county or district court for offences punishable on summary conviction, and providing for the payment thereof;
- (c) fixing the responsibility for the payment of fees and travelling allowances of Crown attorneys where a municipality or a governmental department or agency

would be entitled to any fine imposed or any portion thereof;

Rev. Stat.,
c. 379.

- (d) providing that counsel fees collected from defendants under *The Summary Convictions Act* shall be credited on the Crown attorney's fees that are properly payable to him by a municipality or a governmental department or agency;
 - (e) providing fees and charges payable to Crown attorneys not otherwise provided for under this or any other Act, and providing for the payment thereof;
 - (f) for carrying out the provisions of any Act imposing duties upon or touching the office of Crown attorney;
 - (g) with respect to the prosecution by Crown attorneys of offenders against the laws in force in Ontario;
 - (h) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1949, c. 21, s. 15; 1950, c. 13, s. 1.
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CHAPTER 82

The Crown Timber Act

1. In this Act,

Interpre-
tation.

- (a) "Department" means Department of Lands and Forests;
- (b) "Minister" means Minister of Lands and Forests;
- (c) "public lands" includes lands heretofore designated as Crown lands, school lands and clergy lands. R.S.O. 1937, c. 36, s. 1.

2.—(1) The Minister, or any officer or agent authorized by him to do so, may grant licences to cut timber on the ungranted public lands, and timber on patented lands where the timber on them remains the property of the Crown, at such rates, and subject to such conditions, regulations and restrictions as may from time to time be prescribed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 36, s. 2 (1).

Power to
grant
licences to
cut timber
on public
lands.

(2) Where timber on the ungranted public lands and timber on patented lands where the timber on them remains the property of the Crown, has been killed or damaged and in the opinion of the Minister any other timber in such area ought to be cut for the purpose of economic forest utilization, the Minister may authorize the salvage of such timber to prevent waste at such rates and subject to such conditions, regulations and restrictions as the Minister may deem proper. 1949, c. 22, s. 1.

Salvage of
killed or
damaged
timber.

(3) No such licence shall be granted for a longer period than 12 months from its date and if, in consequence of incorrectness of survey, or other error or from any other cause, a licence is found to comprise lands included in a licence of an earlier date, the licence last granted shall be void in so far as it interferes with the one previously granted, and the holder or proprietor of the licence so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. R.S.O. 1937, c. 36, s. 2 (3).

Period of
licence;
conflicting
licences.

3.—(1) Notwithstanding anything in any general or special Act or in any Order in Council or regulation made pursuant thereto or in any licence, lease, agreement, permit or other

Power to
increase or
decrease
dues and
charges.

document under which the right to cut any kind or class of timber is claimed or exercised, the Lieutenant-Governor in Council may make regulations increasing or decreasing the Crown dues payable in respect of any kind or class of timber and increasing or decreasing the annual ground rent and fire protection charge payable in respect of any timber berth or limit or concession area to take effect at a time to be specified in such regulations.

Idem.

(2) Where by the terms of any licence, lease, agreement, permit or other document under which the right to cut any kind or class of timber is claimed or exercised, a price is fixed for any kind or class of timber and such price is stated to be inclusive of Crown dues or a price is fixed without reference to Crown dues, such price shall be deemed to be increased or decreased from time to time, as the case may be, by the amount whereby Crown dues may be increased or decreased under subsection 1. 1948, c. 21, s. 1.

Bolts
exceeding
eight feet
in length.

(3) Where under any general or special Act, regulation, licence, lease, agreement, permit or other document the right to cut pulpwood is claimed or exercised and provision is made for the measurement and return of pulpwood cut in bolts exceeding 8 feet in length, such pulpwood shall be measured and returned in units of 85 cubic feet of solid wood, and a unit shall be deemed to be a cord.

Bolts in
eight-foot
lengths.

(4) The Minister may allow bolts in lengths of 8 feet to be measured and returned either as cords or as units of 85 cubic feet of solid wood, and a unit shall be deemed to be a cord. 1949, c. 22, s. 2.

Operation
of licence.

4.—(1) The licence shall describe the land upon which the timber may be cut, and shall confer for the time being on the licensee the right to take and keep exclusive possession of the land so described, subject to such conditions, regulations and restrictions as may be prescribed.

Effect of
licence.

(2) The licence shall vest in the holder all rights of property in all trees, timber and lumber cut within the limits specified in the licence during the term thereof, whether the same are cut by authority of the holder of the licence, or by any other person, with or without his consent.

Right of
licensee.

(3) The licence shall entitle the holder to seize such trees, timber or lumber where the same are found in the possession of any unauthorized person, and also to maintain an action against any wrongful possessor or trespasser, and to prose-

cut all trespassers and other offenders to punishment and to recover damages, if any.

(4) All proceedings pending at the expiration of any licence may be continued to final termination as if the licence had not expired. R.S.O. 1937, c. 36, s. 3 (1-4). Continuing proceedings after expiry of licence.

(5) The rights conferred on the licensee under this section shall be subject to the rights to which the locatee or purchaser of the land and those claiming under him, are entitled under *The Public Lands Act*. R.S.O. 1937, c. 36, s. 3 (5); 1949, c. 22, s. 3. Rights of locatees and purchasers. Rev. Stat., c. 309.

(6) Subject to any rights which may have accrued to the Crown prior to the issue of the licence, every renewed licence shall be deemed to have taken effect from the 1st day of April of the season for which it was granted. R.S.O. 1937, c. 36, s. 3 (6); 1939, c. 13, s. 1. Commencement of term of licence.

(7) If the licensee is not in arrear to the Crown on account of dues, ground rent, fire protection charges or other charges, the Minister or any officer or agent authorized by him to do so, may renew the licence or renewed licence of such licensee for a further period of 12 months, and such renewal may be effected by attaching to the licence or renewed licence an endorsement providing for such renewal and such endorsement shall have indicated thereon any change which may have been made in the terms and conditions of the licence. R.S.O. 1937, c. 36, s. 3 (7). Renewal of licences.

5. Every licensee who removes any timber or causes any timber to be removed from the land described in the licence before it has been scaled by an officer of the Department shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than an amount equal to twice the amount payable to the Crown under this Act in respect of such timber and not more than an amount equal to five times the amount so payable. 1944, c. 14, s. 1. Removing timber before scaling.

6.—(1) The Minister may, with the approval of the Lieutenant-Governor in Council, grant rights to cut timber on the ungranted public lands and timber on patented lands where the timber on them remains the property of the Crown, for such periods and for such consideration and subject to such conditions, regulations and restrictions as the Minister may deem proper. Rights to cut timber.

(2) Sections 2, 5, 7, 8 and 9 and all the other provisions of this Act and any regulations made thereunder shall apply Other provisions of Act to apply.

in the case of all timber cut under rights granted under this section. 1947, c. 24, s. 1.

Cutting
rights
may be
extended.

(3) Where rights to cut timber are granted under subsection 1 the Minister may from time to time,

- (a) determine the prices at which species of timber may be cut where the prices for such species are not specifically set out in the cutting authority; and
- (b) grant rights to cut additional species not set out in the cutting authority at such prices and upon such terms and conditions as he may deem proper. 1949, c. 22, s. 4.

Manufac-
turing
conditions.

7. All licences, leases, agreements, permits or other documents heretofore or hereafter granted or made under which the right exists to cut any kind or class of timber on the ungranted public lands or on patented lands where the timber on them remains the property of the Crown, shall be subject to the manufacturing conditions set out in the Schedule. 1948, c. 21, s. 2, *part*.

Suspension
of manu-
facturing
conditions.

8. The Lieutenant-Governor in Council may suspend the operation of one or more of the manufacturing conditions for such period as to him may seem proper, and as to any district or districts which he may define so as to permit the exportation of any kind or class of timber in an unmanufactured or partially manufactured state during such period, and from such district or districts. 1948, c. 21, s. 2, *part*.

Regulations.

9. The Lieutenant-Governor in Council may make such regulations as may be necessary to enable the Minister to carry into effect the object and intent of the manufacturing conditions. 1948, c. 21, s. 2, *part*.

Penalties.

10. The Lieutenant-Governor in Council may prescribe penalties that may be imposed for contravention of any of the manufacturing conditions. 1948, c. 21, s. 2, *part*.

Suspension
of "manu-
facturing
conditions"
as to poplar.

11. The Minister may, so far as the same affects poplar trees and timber and subject to such terms and conditions as to him may seem meet, suspend the operation of the "manufacturing conditions" for such period as to him may seem proper and as to any district or districts which he may define, so as to permit the exportation of poplar pulpwood during such period and from such district or districts. R.S.O. 1937, c. 36, s. 10.

12. The Minister at any time before the completion of the settlement duties and the filing in the Department of proof of such completion may grant licences covering or including lands sold by the Crown under *The Public Lands Act*, and the timber thereon. R.S.O. 1937, c. 36, s. 11.

Grants of timber licences prior to completion of settlement duties. Rev. Stat., c. 309.

13. All such licences shall be good, valid and effectual though issued or renewed after the expiry of three years from the date of the sale of such lands. R.S.O. 1937, c. 36, s. 12.

Validity of such licences.

14. The Minister, where he deems it in the public interest so to do, may confirm, vary or cancel any timber cutting privileges heretofore granted on timber areas without public competition as required by the Crown timber regulations. R.S.O. 1937, c. 36, s. 13.

Authority to confirm, vary or cancel timber cutting.

15. Wherever a timber limit or area is offered for sale by public competition the Minister may stipulate a time limit in which the timber is to be cut and removed, subject to the acquiring by the operator of an annual licence to cut as required by this Act, and may also, when he deems it in the public interest, extend the time of cutting beyond the time prescribed in the terms and conditions of any sale. R.S.O. 1937, c. 36, s. 14.

Time limit for cutting.

16.—(1) Notwithstanding anything in any general or special Act or in any timber licence, lease, concession, agreement or other document under which the right to cut timber is claimed or exercised, the Minister shall have authority to fix the size and kind of trees and timber which may be cut on the unpatented public lands of Ontario and on patented lands where the trees and timber thereon remain the property of the Crown, and such authority may be exercised in such parts of Ontario and for such times and on such conditions as the Minister may direct, and any directions so given may in like manner be varied from time to time.

Powers of Minister as to controlling cutting of timber.

(2) Saving and excepting existing rights provided by section 103 of *The Mining Act* and without extending the scope of subsection 1 hereof, the Minister may exercise the authority and give the directions provided for in subsection 1 with respect to the timber included in any licence, lease, concession, agreement or other document heretofore granted, made or entered into or which may hereafter be granted, made or entered into by the Crown.

Authority to apply to all licences heretofore granted. Rev. Stat., c. 236.

(3) Every corporation, firm or individual who directly, or by any servant, agent or employee cuts or assists in cutting

Penalty for unauthorized cutting.

any trees or timber contrary to any directions given under the authority of this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 for each offence and in default of payment of such penalty may be imprisoned for a term of not more than three months. R.S.O. 1937, c. 36, s. 15.

Road
allowances.

17.—(1) Every Government road allowance included in a timber licence, granted under section 2, shall be deemed to be ungranted public lands, within the meaning of that section.

Rights of
licensee.

(2) The licensee shall have all the rights in respect of every such road allowance, and the trees, timber and lumber thereon, or cut thereon, as were, or by section 2, might be conferred upon him in respect of any other public lands embraced in such licence, and the trees, timber and lumber thereon, or cut thereon, except that he shall not be entitled to take or keep exclusive possession of such road allowance.

By-laws not
to prevail
against
licence.

(3) No by-law of any municipal council for preserving, selling, or otherwise appropriating or disposing of the timber or trees, or any part thereof, on a Government road allowance included in any licence, shall have any force or effect against such licence.

Wasteful
forest
practices
forbidden.

18.—(1) No person shall commit wasteful practices in forest operations.

Regulations.

(2) The Lieutenant-Governor in Council may make regulations,

(a) defining wasteful practices in forest operations;

(b) prescribing the penalties that may be imposed for contravention of any regulation made under this section.

Recovery of
penalties.

(3) The penalties provided for by this section shall be recoverable at the suit of and in the name of the Minister in any court of competent jurisdiction. 1948, c. 21, s. 3.

Persons cut-
ting saw-
logs to keep
record and
deliver same
to officer of
Department.

19. Every person who cuts saw-logs on public lands shall cause to be kept in each shanty, camp or lumbering establishment such records and books as may be prescribed by the Minister, which shall be open at all times to the inspection of any Crown timber agent, Crown timber ranger, or other officer of the Department, and shall at the end of the season be verified by the oath of the person who made the

entries therein and be delivered to an officer of the Department authorized to receive the same. R.S.O. 1937, c. 21, s. 18.

20.—(1) Every person who obtains a licence shall, at the expiration thereof, make to the officer or agent who grants the same, or to the Minister, a return of the number and kind of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square timber manufactured and carried away under the licence; and the return shall be verified by the oath of the holder of the licence, or his agent, or by his foreman. R.S.O. 1937, c. 21, s. 19 (1).

Returns to be made by licensees.

(2) Every person who refuses or neglects to furnish such return shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$500. R.S.O. 1937, c. 36, s. 19 (2); 1944, c. 14, s. 2.

Penalty for failure to make return.

21.—(1) All timber cut under a licence shall be liable for the payment of the Crown dues thereon with interest and expenses so long as and wherever the timber or any part of it may be found in Ontario, whether in the original logs or manufactured into deals, boards or other stuff.

Following timber cut under licence until dues are paid.

(2) When any licence holder is in default for, or has evaded the payment of dues to the Crown on any part of his timber or saw-logs, such dues, interest and expenses may be levied on any other timber or saw-logs or their manufactured product, belonging to the defaulter, and cut under licence, together with the dues thereon, and interest and the expenses incurred.

Dues may be levied on other timber, etc., cut under licence.

(3) All officers or agents entrusted with the collection of such dues may follow all such timber, saw-logs or their manufactured product and may seize and detain the same wherever found until the dues, interest and expenses are paid or secured. R.S.O. 1937, c. 36, s. 20.

Timber, etc., may be followed.

22. Bonds or promissory notes taken for the Crown dues either before or after the cutting of the timber, as collateral security, or to facilitate collection, shall not affect the lien of the Crown on the timber, but the lien shall subsist until the dues are actually paid. R.S.O. 1937, c. 36, s. 23.

The giving of bonds or notes not to affect the lien on the timber.

23.—(1) A person who without authority cuts or employs or induces any other person to cut, or assist in cutting timber of any kind on public lands, or removes or carries away, or employs or induces or assists any other person to remove or carry away, timber of any kind, so cut,

Persons cutting timber without authority.

- (a) shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing it for market or conveying it to or towards market; and
- (b) shall, in addition to the loss of his labour and disbursements, pay to the Department \$15 for each tree cut, removed or carried away.

Remission
of payments.

(2) The Minister may,

- (a) reduce any amount payable under subsection 1; and
- (b) upon payment of the amount payable under this section transfer the timber to such person. 1945, c. 5, s. 2.

Recovery
of sum.

(3) Such sum shall be recoverable at the suit and in the name of the Minister, and the burden of proving his authority to cut shall be upon the person sued. R.S.O. 1937, c. 36, s. 24 (3).

Timber cut
without
authority
mixed with
other timber.

24. Where timber cut without authority has been made up with other timber into a crib, dam or raft, or in any other manner has been so mixed at the mills or elsewhere as to render it impossible or very difficult to distinguish the timber so cut without authority from other timber with which it is mixed, the whole of the timber so mixed shall be deemed to have been cut without authority on public lands, and until satisfactorily separated by the owner shall be liable to seizure and forfeiture accordingly. 1949, c. 22, s. 6.

Seizing
officer may
command
assistance.

25. Any officer or person who in the discharge of his duty under this Act seizes timber may in the name of the Crown call in any assistance necessary for securing and protecting it. R.S.O. 1937, c. 36, s. 26.

Timber
may be
seized.

26. The Minister may order timber which is cut on the ungranted public lands or on patented lands where the timber on them remains the property of the Crown to be seized by an employee of the Department where,

- (a) a person is cutting under authority and owes any dues to the Crown in respect of such timber or land; or
- (b) a person is cutting without authority. 1949, c. 22, s. 7, *part.*

27. Where timber or its manufactured product is seized and no claim is made within 30 days from the date of seizure the timber or its manufactured product shall be forfeited to and shall become the property of the Crown and may be disposed of in such manner as the Minister may direct and the proceeds from such disposal shall be dealt with in such manner as the Minister may determine. 1949, c. 22, s. 7, *part.* Timber forfeited.

28. Where timber is seized for non-payment of Crown dues, or for any other cause of forfeiture, or where any prosecution is brought for any penalty or forfeiture under this Act, and a question arises whether the dues have been paid, or whether the timber was cut on public lands, the burden of proving payment, or that the timber was not cut on public lands, as the case may be, shall lie on the owner or claimant of the timber. R.S.O. 1937, c. 36, s. 27. Onus of proof on claimant or owner.

29.—(1) The alleged owner or claimant of the timber seized may, upon at least four days notice to the Minister, apply to a judge of the county or district court of the county or district in which the timber is, for an order for the delivery of the timber to him, and the judge on receiving security by bond of the alleged owner or claimant, with two good and sufficient sureties, to be approved by the Minister, or by the officer or agent, in such sum as shall also be so approved to pay double the value of the timber in case the cause of forfeiture is established, may direct the delivery of the timber to the alleged owner or claimant. Order for delivery of timber to claimant on security being given.

(2) The bond shall be taken in the name of the Minister and shall be delivered to and be kept by him. Delivery of bond.

(3) The judge, upon the application of either party, may at a time and place to be fixed by him, of which the other party shall have at least seven days notice, try and determine whether the seizure was or was not justifiable, and shall either declare the timber to be forfeited or order it to be released. R.S.O. 1937, c. 36, s. 28 (3-5). Trying right of seizure.

(4) If the timber is declared to be forfeited to the Crown under subsection 3 it shall again be delivered up to the Minister or to an officer or agent of the Department and may be disposed of in such manner as the Minister may direct and the proceeds from the disposal shall be dealt with in such manner as the Minister may determine. When seizure upheld.

(5) Where timber is seized for non-payment of dues owing to the Crown the timber may be surrendered to the alleged owner or claimant upon payment to the Minister of all unpaid Timber may be surrendered to owner.

dues with interest thereon and costs and expenses incurred by the Minister. 1949, c. 22, s. 8 (2).

Forfeiture
of timber
in case of
fraud.

30. Every person who avails himself of any false statement or oath to evade the payment of Crown dues, shall forfeit the timber on which dues are attempted to be evaded. R.S.O. 1937, c. 36, s. 29.

Agreements
for supplying
wood or
timber from
Crown lands
for manu-
facturing
of pulp, etc.

31.—(1) Any agreement heretofore or hereafter entered into by His Majesty or by the Minister with any person for the supply of wood or timber to be used in the manufacture of pulp or similar material to be taken from public lands shall not prevent His Majesty or the Minister from selling, leasing, granting or otherwise disposing of any of the wood or timber of the Crown not specifically sold or allotted to such person, or from issuing or granting licences or permits to other persons to cut and take any wood or timber not so specifically sold or allotted, or from selling, leasing, granting or otherwise disposing of any public lands whether such lands are or are not included in such allotments or agreements or in licences issued in pursuance of them; and other agreements may be made with any other persons to cut and take wood or timber from the public lands for making pulp or for similar or other purposes, without rendering His Majesty or the Minister liable in damages in case of the exhaustion of the supply of such wood or timber, or of the inability of any person with whom a prior agreement was made to obtain a sufficient supply thereof during the whole period for which the agreement is to run or during which the supply of wood or timber is contemplated by any such agreement, unless in respect of any quantity so specifically sold or actually allotted, or the wood and timber upon specified lands actually allotted, or agreed to be allotted to or for such person and no claim or demand against His Majesty or the Minister shall be made or maintained through or by reason of such sale or other disposition.

Term of
agreement.

(2) No such agreement shall extend beyond the period of 21 years from its date. R.S.O. 1937, c. 36, s. 30.

Suspension
of licences,
etc., in case
of danger
of fire.

32.—(1) Whenever it is made to appear to the Minister that the operations of any holder of a timber licence, pulp concession, permit or other authority to cut timber are or are likely to be so conducted as to endanger any standing timber or cause the destruction thereof by fire, he shall have power by a writing under his hand to suspend the operation of the licence, pulp concession, permit or other authority at any time between the 25th day of April and the 1st day of August for such period as he shall deem expedient, and during such period

all cutting of timber by the licensee or other holder, his servants or agents, shall cease unless express leave therefor is granted by the Minister.

(2) Any violation of this provision shall render the licensee Penalty. or other holder liable to a penalty of not less than \$10 and not more than \$100.

(3) The Minister may in his discretion in the case of such Forfeiture of licence, etc., in case of violation. violation, declare the licence, pulp concession, permit or other authority to cut timber to be forfeited, and all rights of any holder thereof shall thereupon immediately determine, but such forfeiture shall in no way affect the liability of any holder for any payments due the Crown in respect of timber cut or otherwise in connection therewith, and the right of the Crown to proceed under this Act to collect the same shall remain as if no forfeiture had taken place.

(4) The Lieutenant-Governor in Council may make such Regulations. regulations as he may deem necessary or proper to regulate the cutting of timber on Crown lands between the 25th day of April and the 1st day of August, and may prescribe penalties for the contravention of any such regulations. R.S.O. 1937, c. 36, s. 31.

33. All Crown dues, interest, costs, expenses and penalties imposed under this Act and all other charges and claims Lien for dues, etc., priority of. of the Crown upon or in connection with trees or timber standing on, or which have been cut on the public lands of Ontario, or upon or in connection with trees or timber standing on, or which have been cut on patented lands where by the terms or conditions of the sale of such lands the timber on such patented lands remained the property of the Crown, shall, in preference and priority to any and all other fees, charges, liens or claims whatsoever, be a lien and charge upon the trees and timber so standing or which have been so cut, and upon all manufactured products of the trees so cut, and also upon the property whether real or personal, movable or immovable, of the person liable to pay such Crown dues, interest, costs, expenses or penalties. R.S.O. 1937, c. 36, s. 32.

34. Where personal property subject to a lien and charge Notice of lien. under section 33, is under seizure or attachment or has been seized by the sheriff, or by a bailiff of any court, or is claimed by or in possession of any assignee for the benefit of creditors, or liquidator, or trustee, or authorized trustees in bankruptcy, or where such property has been converted into cash and is undistributed, the Minister may give to the sheriff, bailiff,

assignee, or liquidator, or trustee, or authorized trustee in bankruptcy, notice of the amount due or owing under such lien and charge, and in such case the sheriff, bailiff, assignee or liquidator, or trustee, or authorized trustee in bankruptcy shall pay the amount of the same to the Treasurer of Ontario in preference to and in priority over any and all other fees, charges, liens or claims whatsoever. R.S.O. 1937, c. 36, s. 33.

Recovery of penalties.

Rev. Stat., c. 379.

35. The penalties imposed by or under the authority of this Act or of the regulations, except the regulations made under section 18, shall be recoverable under *The Summary Convictions Act*. R.S.O. 1937, c. 36, s. 34; 1948, c. 21, s. 4.

Act subject to Rev. Stat., c. 297.

36. This Act shall be subject to the provisions of *The Provincial Forests Act*. R.S.O. 1937, c. 36, s. 35.

SCHEDULE

(Section 7)

MANUFACTURING CONDITIONS

1. All timber that may be cut under the authority of *The Crown Timber Act* shall, except as hereinafter provided, be manufactured in Canada.
2. Felling and cutting trees into lengths shall not be deemed to be manufacturing within the meaning of these conditions.
3. Timber that is used in Canada in an unmanufactured state for fuel, building or other purposes shall not be subject to these conditions.

1948, c. 21, s. 5.

CHAPTER 83

The Crown Witnesses Act

1. In this Act,

Interpre-
tation.

- (a) "judge" means the judge presiding at any sittings of the Supreme Court, the court of general sessions of the peace, the county or district court judges' criminal court, or the magistrate presiding in a court for the summary trial of indictable offences under the *Criminal Code* (Canada), or the magistrate or justice of the peace holding a preliminary inquiry; R.S.C., 1927, c. 36.
- (b) "trial" includes a preliminary inquiry before a magistrate or justice of the peace. R.S.O. 1937, c. 142, s. 1.

2.—(1) The judge may grant to any person who attends at the instance of the Crown to give evidence an order for the payment of such sum as he deems proper but not more than is provided for in the Schedule to this Act, provided that the sum ordered to be paid may be increased upon the fiat of the Attorney-General in order that the witness may be reasonably compensated for his attendance at the trial. 1949, c. 23, s. 1. Compensation to Crown witnesses.

(2) The judge may include in his order such sum in addition to ordinary witness fees as he may deem reasonable and sufficient to compensate any witness by whom a plan has been prepared or any other article furnished or work done for use at the trial for his costs and charges in preparing such plan or other article or doing such work. Additional fees.

(3) A special fee may be paid to an expert witness upon the fiat of the Attorney-General. R.S.O. 1937, c. 142, s. 2 (2, 3). Special fee.

3. Where a bill of indictment has not been preferred, or where the trial has not been proceeded with, the judge may make a similar order in favour of any person who, in his opinion, *bona fide* attended the court in obedience to a recognition or subpoena, or at the instance of the Crown. R.S.O. 1937, c. 142, s. 3. Where no indictment preferred or trial had.

Certificate
whereon
order to be
made.

4.—(1) The order shall not be made except on a certificate by the counsel for the Crown, and by the Crown attorney or his representative containing the particulars necessary in the affidavit required in civil cases to entitle a party to disbursements to witnesses, and shall be to the like effect, but the judge may require further evidence.

When
certificate
unnecessary.

(2) When the Crown attorney is not present at a preliminary inquiry before a magistrate, or justice of the peace, no certificate shall be necessary. R.S.O. 1937, c. 142, s. 4.

Order, how
made out
and to whom
directed.

5. The order shall be prepared by the proper officer of the court and shall be directed to the treasurer of the county in which the offence was committed or was supposed to have been committed, or, if the offence was committed or was supposed to have been committed in a city, or in a town separated for municipal purposes from the county, the order shall be directed to the treasurer of the city or town. R.S.O. 1937, c. 142, s. 5.

Payment
by the
treasurer.

6. The treasurer to whom the order is directed shall forthwith, out of the funds of the municipality in his hands, pay to each of the witnesses named the amount stated in the certificate, on his signing a receipt therefor in person. R.S.O. 1937, c. 142, s. 6.

Payment by
a treasurer
on whom
order is not
made.

7. Where the trial takes place in a county other than the county in which the offence was committed the treasurer of the county in which the trial takes place, if applied to by the witness, shall forthwith pay the money in the first instance out of the funds of the municipality in his hands, and shall forthwith be reimbursed by the treasurer to whom the order is directed. R.S.O. 1937, c. 142, s. 7.

Reimburse-
ment of
one-third
by Province.

8. One-third of the amount paid to witnesses under this Act shall be paid to the county treasurer out of the Consolidated Revenue Fund if such payment is approved by the county board of audit and where such amount has been paid by a municipality other than the county, the county treasurer shall pay to such municipality the amount to which it is entitled. R.S.O. 1937, c. 142, s. 8.

Idem;
where
witnesses
from un-
organized
districts.

9. In respect of witnesses in cases sent from the unorganized districts for trial in any county the expenses of the witnesses shall be repaid in full out of the Consolidated Revenue Fund. R.S.O. 1937, c. 142, s. 9.

Witness in
cases tried
in unorgan-
ized districts.

10. The like fees shall be paid out of the Consolidated Revenue Fund to witnesses attending a sitting of any court

held in any provisional judicial district, and shall be so paid under such regulations as the Lieutenant-Governor in Council may prescribe. R.S.O. 1937, c. 142, s. 10.

11. Where witness fees paid under this Act are, by virtue of the judgment of the court, afterwards recovered from the prosecutor or defendant, the same shall be repaid to the municipality, and one-third accounted for by the municipality to the Crown. R.S.O. 1937, c. 142, s. 11.

Where municipality to be repaid.

12.—(1) The Crown attorney shall be entitled to receive from the corporation of the county in which the court is held a fee of \$1 in respect of every prosecution or trial on which a witness is examined, which sum shall be over and above his other costs and charges and shall cover the costs, charges and expenses of and incidental to the certificate, or the inquiry whether a certificate should be granted.

Fee to Crown attorney in respect of certificate.

(2) One-third of such fee shall be paid to the corporation out of the Consolidated Revenue Fund. R.S.O. 1937, c. 142, s. 12.

Reimbursement.

13. In the case of an information, action, or other legal proceeding by or on behalf of the Crown, for the prosecution of rights, claims or demands of His Majesty against any person for the use of Ontario, or for the recovery of the possession of any land, deeds or personal property whereto His Majesty claims to be entitled for the use of Ontario, the witnesses shall be entitled to be paid the like witness fees as are payable in actions between subject and subject. R.S.O. 1937, c. 142, s. 13.

Witness fees payable on prosecution of claims, etc., by His Majesty.

14. Nothing in this Act shall entitle a witness to require payment of any sum before the determination by adjournment or otherwise of the prosecution or trial at which he attends as a witness. R.S.O. 1937, c. 142, s. 14.

When compensation payable.

15. Where any commission has issued to take the evidence of any witness, the fees and expenses incurred in and by the issue of the commission and the taking of the evidence shall be paid in the same manner as witness fees, upon the certificate of the Attorney-General, the Deputy Attorney-General or the Crown attorney. 1942, c. 34, s. 9.

Where evidence taken by commission.

SCHEDULE

(Section 2 (1))

WITNESS FEES AND ALLOWANCES

1. Attending trial, each day—\$3.

Barristers, solicitors, physicians and surgeons when called upon to give evidence in consequence of any professional service rendered by them or to give professional opinions, each day—\$7.

Engineers, accountants, surveyors and architects when called upon to give evidence in consequence of any professional service rendered by them or to give evidence depending upon their skill or judgment, each day—\$7.

2. Where witness resides more than three miles from place of trial and travels by public conveyance other than taxi, the amounts reasonably and actually paid; where he travels in his own automobile, 8 cents for each mile necessarily travelled, but if a public conveyance other than taxi is available no witness shall be allowed mileage of more than 200 miles in respect of each day.

Where the witness is required to attend trial on more than one day and returns to his place of residence at night the allowance may be in respect of each day's attendance.

3. Where the witness resides elsewhere and is required to remain at the place of trial overnight, the amount reasonably and actually paid for living expenses, but not more than \$6 for each day.

1949, c. 23, s. 2.

CHAPTER 84

The Cullers Act

1. In this Act,

Interpre-
tation.

- (a) "cull" means,
 - (i) in reference to pulpwood, a log having less than one-half of its cubical content of sound wood, and
 - (ii) in reference to sawlogs, a log having less than one-third of its board measure of sound wood;
- (b) "culler" includes scaler;
- (c) "Department" means Department of Lands and Forests;
- (d) "Minister" means Minister of Lands and Forests;
- (e) "public lands" includes Crown lands, school lands, clergy lands and patented lands where the timber on them remains the property of the Crown;
- (f) "pulpwood" includes all timber suitable or intended for manufacturing pulp or paper;
- (g) "sawlogs" includes logs of whatever length whether round or flatted. R.S.O. 1937, c. 240, s. 1; 1943, c. 28, s. 12; 1946, c. 15, s. 1; 1949, c. 24, s. 1.

2.—(1) The Lieutenant-Governor in Council may appoint as many boards of examiners as he may deem necessary, each consisting of three skilled persons any two of whom shall form a quorum, whose duty shall be,

Boards of
examiners.

- (a) to examine, test and report upon the ability and knowledge of all applicants desiring to be licensed to cull and measure sawlogs cut on public lands;
- (b) to examine, test and report upon the ability and knowledge of all applicants desiring to be licensed to cull and measure pulpwood cut on public lands;

- (c) to perform such other duties as may be assigned to them by the Lieutenant-Governor in Council.

Minister to set standard. (2) The Minister is hereby authorized to fix the standard and method of examination. R.S.O. 1937, c. 240, s. 2.

Oath of examiner. **3.**—(1) Every examiner, before entering upon his duties, shall take and subscribe an oath to the following effect:

That I,, will act as Examiner of Cullers to the best of my ability and knowledge, and will conduct the examinations without fear, favour or affection and recommend for licences only those persons who have satisfactorily proved their fitness to discharge the duties of culling and measuring sawlogs, or of culling and measuring pulpwood, as the case may be.

Oath to be transmitted to Minister. (2) The oath shall be transmitted to the Minister. R.S.O. 1937, c. 240, s. 3.

Remuneration of examiners. **4.** The Lieutenant-Governor in Council may authorize the payment to each member of a board of examiners, as remuneration for his services, of a sum not exceeding \$10 per day while actually employed as an examiner. R.S.O. 1937, c. 240, s. 4.

Duties of board. **5.** Every board shall sit at such places and on such dates as may be fixed by the Minister, and shall examine all candidates who present themselves before them, and at the close of the examination, or as soon after as may be, shall transmit to the Minister the names of the candidates they believe are trustworthy and of good character, and who have passed a satisfactory examination, and whom they recommend as having the requisite skill and knowledge to warrant their being licensed as cullers, either of sawlogs or of pulpwood. R.S.O. 1937, c. 240, s. 5.

Application for examination. **6.**—(1) Every person intending to present himself for examination as a culler shall, on or before the 1st day of July, give notice in writing to the Minister of such intention, and of his post-office address.

Form of notice. (2) The notice shall state whether the candidate intends to present himself for examination as a culler of sawlogs or as culler of pulpwood.

Examination fee. (3) The examination fee as culler either of sawlogs or pulpwood shall be \$4.

Time of payment. (4) Examination fees may be paid at the time the notice is given or to the presiding examiner before the examination.

(5) Failure to comply with subsection 1 shall not render an applicant ineligible for examination privileges if reasons satisfactory to the Minister are furnished and other necessary requirements are met. R.S.O. 1937, c. 240, s. 6. Failure to comply with provisions as to application.

7.—(1) The Minister may issue a culler's licence to any person who, Culler's licence.

(a) has been recommended by a board as provided in section 5; and

(b) has taken the oath prescribed by section 8,

and may designate any such licence as a pulpwood culler's licence or a sawlog culler's licence.

(2) Every licence shall expire on the 31st day of March next following the date of the issue thereof. Expiration of licence.

(3) A licence, upon application to the Minister, may be renewed from time to time either before or after the expiration thereof or of the last renewal and every renewal shall expire on the 31st day of March next following the date thereof but where a licence has not been renewed within three years after its expiration or after the expiration of the last renewal, it shall not be further renewed. Renewal of licence.

(4) The Minister may suspend or cancel the licence of a culler for failure to observe any of the provisions of the Act or of any requirement lawfully made by the Minister. a Suspension or cancellation of licence.

(5) A person who is the holder of a licence as culler of sawlogs shall be entitled thereunder to measure and cull pulpwood. 1946, c. 15, s. 2. Effect of licence.

8.—(1) Before a licence is issued each successful applicant shall take an oath to the following effect: Oath of applicant for licence.

That I,, while acting as a licensed culler, without fear, favour or affection, and to the best of my judgment and skill, will correctly measure in accordance with the authorized Manual of Scaling Instructions, all pulpwood (or sawlogs as the case may be) cut on public lands and which I may be employed to measure, and make true return of the same to the Department of Lands and Forests, or its agents.

R.S.O. 1937, c. 240, s. 8 (1); 1949, c. 24, s. 2.

(2) The oath shall be transmitted to the Minister. R.S.O. 1937, c. 240, s. 8 (2). Oath to be transmitted to Minister.

9. No person other than a licensed culler, and no licensed culler as to timber other than that covered by his licence, Special permit.

shall make measurements of sawlogs or pulpwood cut upon public lands for the purposes of a return to the Department, but where it is made to appear to the satisfaction of the Minister that the services of a licensed culler are not procurable, the Minister may issue a special permit to any trustworthy and skilled person to act as culler, and upon his taking the prescribed oath, but such permit shall not extend beyond the 1st day of June next following its date. R.S.O. 1937, c. 240, s. 9.

Duty of
culler.

10. It shall be the duty of every culler of sawlogs or of pulpwood as the case may be, to measure fairly and correctly to the best of his skill, knowledge and ability, in accordance with the authorized Manual of Scaling Instructions, all sawlogs and pulpwood which he may be employed to measure, making only such deductions as are necessary to allow for rots or other defects, and to enter in a book of record, for the purpose of return to the Department, what he believes to be the proper contents of the logs and pulpwood, noting also the number of pieces of sawlog and pulpwood timber respectively rejected as culls. R.S.O. 1937, c. 240, s. 10; 1943, c. 28, s. 13; 1949, c. 24, s. 3.

Cull logs to
be marked.

11. It shall be the duty of every licensed culler to mark upon all cull logs the word "cull" and the person authorized to cut the timber shall not be required to make payment for such cull. 1943, c. 28, s. 14.

Books and
records may
be inspected
by officers of
Department.

12. All licensed cullers shall submit their books and records of measurements for the inspection of any Crown timber agent, Crown timber ranger, or other officer of the Department when called upon so to do, and shall give all information asked for if in their power and furnish any statements or copies of statements which the Department or its agents may require. R.S.O. 1937, c. 240, s. 12.

Returns to
be made by
cullers of
sawlogs.

13. At the end of the season every culler of sawlogs shall make a sworn return upon forms supplied by the Department or its agents, which shall show the names and addresses of each person for whom the sawlogs measured were cut, the lands on which the sawlogs were cut, the number of pieces measured and accepted by him cut on each of the lands and the respective lengths and diameters of each of the pieces so cut and also the number of pieces so cut on each of the lands and classified as culls. R.S.O. 1937, c. 240, s. 13; 1947, c. 25, s. 1.

Returns to
be made by
cullers of
pulpwood.

14. At the end of the season every culler of pulpwood shall make a sworn return upon the forms supplied by the Department or its agents which shall show the number of

cords of pulpwood measured by him, the names and addresses of each person for whom the pulpwood was cut, the lands on which the pulpwood was cut and the number of cords so cut on each of the lands, and also the quantity of pulpwood cut on each of the lands and classified as culls. R.S.O. 1937, c. 240, s. 14; 1947, c. 25, s. 2.

15.—(1) Every person who, not being the holder of a licence or special permit under this Act, performs or attempts to perform the duties of a culler, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$50 for each offence. Offences and penalties.

(2) Every person who, being the holder of a pulpwood culler's licence or special permit only, performs or attempts to perform the duties of a sawlog culler, shall be guilty of an offence and on summary conviction shall be liable to the penalties prescribed in subsection 1. 1946, c. 15, s. 3; 1949, c. 24, s. 4, *amended*. Idem.

16. If a culler wilfully undermeasures or mismeasures or improperly culls and rejects any sawlogs or pulpwood, or makes a false return for the purpose of deceiving or defrauding, his licence shall be revoked and he shall not be permitted to act as culler under this Act, and in addition he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$20 and not more than \$100 for each offence. R.S.O. 1937, c. 240, ss. 16, 18. Idem.

17. The Minister may authorize a Manual of Scaling Instructions prescribing the method of measuring timber cut on ungranted public lands, and timber cut on patented lands where the timber on them remains the property of the Crown, and such authorization shall be deemed to be of an administrative and not of a legislative nature. 1949, c. 24, s. 5. Manual of Scaling Instructions authorized.

18. This Act shall not abrogate any regulations made under *The Crown Timber Act*, except in so far as they may be inconsistent herewith. R.S.O. 1937, c. 240, s. 17. Regulations under Rev. Stat. c. 82, not abrogated.

19. The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) prescribing forms of licences and renewals and other forms for use under this Act;
- (b) prescribing fees payable in respect of licences and renewals thereof;
- (c) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1946, c. 15, s. 4.

CHAPTER 85

The Custody of Documents Act

1. In this Act, "document" includes whatever is included in the word "instrument" as defined by *The Registry Act*, and also any certificate, affidavit, statutory declaration, or other proof as to the birth, baptism, marriage, divorce, death, burial, descendants, or pedigree of any person, or as to the existence or non-existence, happening or non-happening of any fact, event or occurrence upon which the title to land may depend, and notices of sale, or other notices necessary to the exercise of any power of sale or appointment or other power relating to land. R.S.O. 1937, c. 173, s. 1.

Interpre-
tation.
Rev. Stat.,
c. 336.

2. Any person having any document, forming or being a title deed or evidence or muniment of title to land in Ontario, may deposit the same for safe custody in the office of the registrar of any registry division in which the document or a duplicate or copy or memorial or certificate thereof has been registered; or, where it does not appear by any endorsement thereon that the same or a duplicate or copy or memorial or certificate thereof has been registered, the document may be so deposited in the office of the registrar of any registry division in which any land to which the same relates is situate. R.S.O. 1937, c. 173, s. 2.

Deposit
of title
deeds, etc.

3. Upon every such deposit the person making the deposit shall deliver to the registrar a requisition in duplicate (Form 1) which may include any number of documents, and the registrar shall sign a receipt upon one of the duplicates for the documents therein mentioned, and shall deliver the receipt to the person making the deposit. R.S.O. 1937, c. 173, s. 3.

Requisition
to be filed
and receipt
given.

4.—(1) Upon receiving the requisition and the documents therein mentioned the registrar shall enter every document in consecutive order in a book (Form 2) to be called the "Deposit Index", and shall therein number such documents consecutively, and shall endorse on each document the word "deposited", with the date of deposit and the number of the entry thereof in the deposit index, and shall file the same in consecutive order according to its number, and shall also endorse on the requisition the numbers so placed on the documents therein mentioned, and shall file all the requisitions in consecutive order according to such numbers.

Each docu-
ment to be
numbered
and entered
in deposit
index and
filed.

Names to be
entered in
alphabetical
index.

(2) The registrar shall also enter in an alphabetical index, to be called the "Alphabetical Deposit Index", the number of the document in the deposit index, and the name of every party to the document, or to the action, suit or proceeding to which the document relates, or if the same is a certificate or an affidavit, or a statutory declaration or other proof as to the birth, baptism, marriage, divorce, death or burial of any person, the name of such person.

Entry
opposite
registered
instruments.

(3) Where it appears by any certificate of registration endorsed on the document that the same or a duplicate or a copy or memorial or certificate thereof is registered in his registry office, the registrar shall also enter in the margin of every registry book wherein the same is registered opposite the entry thereof the words "See deposit index No., 19. . . .", referring to the number of the document in the deposit index and the date of the deposit.

Entry on
abstract
index.

(4) When any deposit refers to a lot or parcel of land the registrar shall also enter on the abstract index against each such lot or parcel in red ink the words "See Deposit No.". R.S.O. 1937, c. 173, s. 4.

Notice to be
sent to other
registry
offices.

5.—(1) Where it appears by any certificate of registration endorsed on the document that the same is registered in any other registry division, the registrar with whom the same is deposited shall, within 10 days after the deposit, send to such other registrar a notice thereof in duplicate (Form 3).

Fees to other
registrars.

(2) The registrar receiving the notice shall be entitled to a fee of 20 cents for every document in respect of which he is required to make an entry.

Entry of
notice.

(3) On receipt of the notice the registrar receiving the same shall enter in the margin of every registry book wherein the document appears to have been registered, opposite the entry thereof, the words "See deposit index in registry office, No., 19. . . .", referring to the registry office from which the notice is received, and the number and date of the deposit therein, and he shall forthwith send an acknowledgment of the receipt of the notice written upon one of the duplicate notices.

Repeating
notice until
acknow-
ledged.

(4) If such an acknowledgment is not received within 14 days from the sending of the notice the registrar sending the notice shall send another like notice and shall repeat the same every 14 days till the acknowledgment is received.

Transmission
by registered
post.

(5) Every such notice and acknowledgment shall be sent by registered post, and a sufficient sum to pay the registrar's fees and the postage shall be sent with the notice.

(6) All notices received from other registrars shall be filed by the registrar receiving the same in the order in which they are received, and all such acknowledgments shall be filed by the registrar receiving them in the order of their receipt. Order in which notices to be filed.
R.S.O. 1937, c. 173, s. 5.

6. The registrar with whom the deposit is made shall be entitled to the following fees to be paid at the time of the deposit by the person making the deposit: Registrar's fees.

On every requisition.....	\$.20
On every document deposited.....	.10
For every notice necessary to be sent to other registrars (not more than one notice to any one registrar to be charged for).....	.15
Necessary postage on the notices and acknowledgments.	
A sum sufficient to pay the fees under subsection 2 of section 5.	
For entering upon the abstract index for each lot in excess of 4 lots.....	.05

R.S.O. 1937, c. 173, s. 6.

7.—(1) A receipt for payment of money on any registered instrument may be deposited in the registry office in which the instrument is registered, but it shall not be necessary to deliver any requisition with the receipt or to pay any fee for depositing the same or the entries in respect thereof, except the sum of 20 cents. Deposit of receipts.

(2) The registrar shall receive and file in consecutive numerical order all receipts so deposited, and shall endorse thereon the number, the date of deposit, and the amount mentioned in the receipt, and shall write in the margin of the registry book wherein the instrument to which the receipt relates has been registered the words "See receipt No.". Registrar to receive and enter.
R.S.O. 1937, c. 173, s. 7.

8. Any person shall be entitled to inspect and make or obtain copies of, or extracts from, any document deposited under this Act in like manner as in the case of instruments registered under *The Registry Act*, and the registrar shall be entitled to the same fees in respect thereof as in the case of registered instruments. Deposited documents open to inspection. Rev. Stat., c. 336.
R.S.O. 1937, c. 173, s. 8.

9. The deposit of a document under this Act shall not be deemed a registration thereof within the meaning of *The Registry Act* nor shall the admissibility or value of any document as evidence be affected by the deposit. Deposit not registration and not to affect document as evidence. Rev. Stat., c. 336.
R.S.O. 1937, c. 173, s. 9.

10. The deposit of a document under this Act shall, while the document continues so deposited, be deemed a sufficient Deposit relieves from liability.

compliance with, and fulfilment of, any covenant or agreement entered into by any person to produce or allow the inspection of, or the making of, any copy of or extract from the document, and shall absolve any person liable for the production or custody thereof from any further liability in respect of such custody or production. R.S.O. 1937, c. 173, s. 10.

Registrar to keep safely.

11. The registrar with whom a document is so deposited shall keep the same safely in his office in like manner and with the same care as the instruments registered in his office, and he and his sureties shall be responsible in respect thereof in like manner as in respect of instruments registered under *The Registry Act*, and the registrar shall not part with the possession of any such document unless in accordance with the order of a court or a judge as hereinafter provided. R.S.O. 1937, c. 173, s. 11.

Rev. Stat., c. 336.

Expenses of executors, etc.

12. An executor, administrator or trustee may reimburse himself out of the estate any expense which he incurs in or about depositing any document which may come to his possession or control as such executor, administrator or trustee. R.S.O. 1937, c. 173, s. 12.

Application to remove from custody.

13.—(1) At any time after the deposit of a document any person may apply to the Supreme Court or to the county or district court of the county or district in which the deposit is made, or to a judge of either of such courts, for the delivery of the document to such person, and the court or judge may direct that the same shall be delivered by the registrar to the applicant, or to any person the court or judge directs, upon being satisfied that the applicant would, but for the deposit, be solely entitled to the possession of the document, and that the deposit thereof was made without his consent, or the consent of any person entitled at the time of the deposit to any interest therein, and, where the document relates to other land than that in which the applicant is interested, that there are reasonable grounds for removing the document from the custody of the registrar. R.S.O. 1937, c. 173, s. 13 (1); 1944, c. 58, s. 3.

Notice of application.

(2) Before making the order the court or judge may require such notice of the application, by advertisement or otherwise, to be given to the person by whom the deposit was made, or to any other person, as to the court or judge shall seem meet.

Costs.

(3) The order may direct that all or any part of the costs of the application, or of opposing the same, or in relation

thereto, be paid by the person by whom the deposit was made, or by the person by whom the application is made, or by any person to whom notice of the application has been given or the court or judge may make such other order in respect of the costs of the applicant, and of the persons who have been notified, or who oppose the application, as may seem just. R.S.O. 1937, c. 173, s. 13 (2, 3).

14.—(1) Upon the delivery to the registrar of the order, ^{Delivery under order.} or a duplicate thereof, within six months after the date thereof, and upon payment to him of the sum of 50 cents, he shall deliver to the person mentioned therein the documents therein directed to be given to him, taking his receipt, or the receipt of his authorized agent therefor.

(2) The registrar shall thereupon enter in the deposit ^{Registration of order.} index, opposite the entry of the document, the date of such delivery, and the name of the person to whom delivered, the court or judge by whom the order was made, and the date of the order, and shall file the order among the requisitions for deposit in the order of the date of its receipt. R.S.O. 1937, c. 173, s. 14.

FORM 1

(Section 3)

REQUISITION

To the Registrar of the Registry Division of

I (or we) hereby deposit with you, pursuant to *The Custody of Documents Act*, the following documents:

Description of document.	Names of all parties.	Any other particulars or subject of certificate, affidavit, etc.	Land in this registry division to which documents relate.	Particulars of registration of registered instruments.			
				Registry division.	Date.	No.	Township, city, town, etc.

Dated (in duplicate)

Signed in presence of me, to whom the depositor, and his residence and occupation are well known. } C. D.
Residence, giving Lot, Concession or House No. and Street.
 A. B. } (Occupation)

The documents above mentioned, with a duplicate of the above requisition, are this day received by me.

Dated

E. F.,
 Registrar for

R.S.O. 1937, c. 173, Form 1.

FORM 2

(Section 4 (1))

DEPOSIT INDEX

Deposit No.	Description of document.	Parties.	Land in this registry division mentioned	Any other particulars or subject of certificates, affidavits, etc.	Particulars of registration certificate endorsed.	Date of deposit.	By whom deposited.

R.S.O. 1937, c. 173, Form 2.

FORM 3

(Section 5 (1))

NOTICE OF DEPOSIT

To the Registrar of the Registry Division of.....

The following documents, which appear to be registered in your registry office, have been deposited in this registry office under *The Custody of Documents Act*.

Deposit Index No.	Date of deposit.	Description of document.	Parties.	Particulars of registration in your registry division.		
				Township, city, town, etc.	Date of registration.	Registration No.
2146	8th Aug., 19...	Mortgage.	John Smith to Wm. Jones.			

You are required to enter such deposit, and to acknowledge receipt hereof, under above Act. I enclose cents for your fees and cents for postage on acknowledgment.

Dated at..... Registrar for.....

ACKNOWLEDGMENT TO BE PUT ON DUPLICATE NOTICE

The duplicate of above notice of deposit of (*three*) documents received at the registry office for..... this..... day of....., 19...., and entry of such deposit has been made in accordance with *The Custody of Documents Act*.

Registrar

R.S.O. 1937, c. 173, Form 3.

CHAPTER 86

The Dairy Products Act**1. In this Act,**Interpre-
tation.

- (a) "cheese factory" means any building or premises where milk from 50 or more cows is regularly brought for the purpose of being manufactured or separated into cheese or cheese and cream;
- (b) "creamery" means any building or premises where milk or cream from 50 or more cows is regularly brought for the purpose of being manufactured or separated into butter or butter and cream;
- (c) "combined cheese factory and creamery" means any building or premises where milk or milk and cream from 50 or more cows is regularly brought for the purpose of being manufactured or separated into cheese and butter or cheese, butter and cream;
- (d) "dairy products" means products which are made wholly or chiefly from milk or cream, or both;
- (e) "Director" means Director of Dairying appointed under this Act;
- (f) "inspector" means a person appointed as an inspector or instructor, or both, under this Act;
- (g) "milk condensary" and "milk powder plant" mean any building or premises where milk and cream is manufactured into concentrated dairy products;
- (h) "milk separating plant" means any building or premises where whole milk is brought for the purpose of being separated into cream;
- (i) "Minister" means Minister of Agriculture;
- (j) "patron" means a milk producer who sells milk or cream to a plant;

- (k) "plant" includes cheese factory, creamery, combined cheese factory and creamery, milk condensary, milk powder plant, and milk separating plant;
- (l) "regulations" means regulations made under this Act. 1938, c. 7, s. 1.

Construction
of plants.

2.—(1) A building shall not be used, constructed or reconstructed for use as a plant unless the Minister has granted permission therefor in writing after receipt by him of a certificate from the Director that such a plant is reasonably necessary and desirable having regard to the sufficiency of water supply, sewage disposal facilities, the supply of milk and cream in the locality of the proposed plant and whether it is in the interests of the local milk producers and plants in operation.

Require-
ments of
factory.

(2) Every building shall comply with the following requirements:

- (a) The foundation shall be substantial and shall be constructed of stone or concrete.
- (b) The floors shall be constructed of concrete or suitable tile.
- (c) The outlets for waste water shall be fitted with bell traps and the waste water shall be conducted to a septic tank, cesspool, underground drain or sewer in such manner that the building and surroundings shall be kept clean and sanitary.
- (d) The interior walls, partitions and ceilings shall be covered with lumber, plaster, cement or other material suitable for painting or tinting.
- (e) The ceilings of the workrooms shall be not less than 10 feet from the floor.
- (f) The containers for whey, buttermilk and skim milk shall be capable of being emptied readily and of being kept clean and sanitary and the containers shall not be placed in or under the ground.
- (g) Every window, outside door and weighing or receiving platform shall be constructed so as to prevent the entry of flies to the workrooms. 1938, c. 7, s. 3.

Licence to
operate.

3.—(1) The Minister, upon the recommendation of the Director, may grant licences for the operation of plants and may suspend or cancel any such licence.

(2) Upon the report of an inspector that any plant is not properly equipped for the collection or manufacture of milk, cream or dairy products having regard to the type of the plant or that unsanitary conditions exist in or about such plant, the Minister may suspend or cancel the licence issued in respect of such plant and thereupon such plant shall not be operated until the Minister, upon the report of an inspector that the plant is properly equipped and in proper sanitary condition, directs that the suspension be lifted or that a new licence be issued in respect of such plant. 1938, c. 7, s. 4.

4. A person who holds a licence under *The Milk Control Act* to process milk shall not require a licence under this Act to operate a milk condensary, milk powder plant or milk separating plant, provided that the other provisions of this Act and the regulations shall apply to every such plant. 1940, c. 8, s. 1.

5. Subject to section 4, every person who operates a plant without a licence issued under this Act, in addition to any other penalty provided by this Act, shall be liable to a penalty of \$10 for every day during which such plant is so operated. 1938, c. 7, s. 5; 1940, c. 8, s. 2.

6. No person shall own, operate, manage or have charge of any place other than a creamery, where cream is received or purchased for the purpose of being transported or forwarded to a creamery unless such place has been approved by the Director, and no person shall deliver cream to or accept cream from any such place unless such place has been so approved. 1938, c. 7, s. 6.

7. The Lieutenant-Governor in Council may appoint a Director of Dairying and such inspectors and instructors as he may deem necessary for the administration of this Act. 1938, c. 7, s. 7.

8.—(1) It shall be the duty of each inspector and he shall have authority,

- (a) to check the grading of milk and cream at any plant and to weigh, test and take such quantities of milk, cream or milk products as may be required for testing purposes;
- (b) to examine and test samples of milk or cream kept for retesting at any plant;
- (c) to examine the records and receipts of milk and cream and Babcock tests made at any plant and of the

disposition thereof, and the weight of butter, cheese and other dairy products manufactured at any plant.

Obstructing
inspector.

(2) Every person who obstructs an inspector in the performance of his duty shall be guilty of an offence and in addition to any other penalty shall be liable to a penalty of not less than \$25 and not more than \$100. 1938, c. 7, s. 8.

Inspection of
plant, etc.

9.—(1) For the purposes of enforcing this Act and the regulations every inspector shall have free access and admission at all reasonable times to every plant and every railway station, express office, terminal warehouse and other premises in which milk or cream is collected for sale, manufactured into dairy products, produced, kept or stored, and every wagon, truck, train and other conveyance in which milk or cream is transported or conveyed, and may take such samples of milk and cream found in any such plant, premises or conveyance as he deems necessary.

Right to
inspect
books and
records.

(2) Every inspector shall at all reasonable times have access to the books and records of every plant. 1938, c. 7, s. 9.

Basis of
payment
for milk
and cream.

10.—(1) Subject to the regulations, all milk and cream received at a plant, including a plant where milk is collected for distribution and resale, shall be paid for,

(a) on the basis of its fat content as determined by the Babcock test; or

(b) on the basis of its fat content as determined by the Babcock test plus the factor 2 in the case of milk received for cheesemaking only.

Fat content
of milk.

(2) In determining the fat content of milk supplied to a plant, a measuring pipette having a capacity of 17.6 cubic centimetres shall be used.

Fat content
of cream.

(3) In determining the fat content of cream supplied to a plant the sample of cream taken for testing purposes shall be weighed into a graduated testing bottle suitable for use in the Babcock test, and shall weigh 9 or 18 grams.

Capacity
to be marked
on pipette
and bottle.

(4) The capacity of every measuring pipette referred to in subsection 2 and the graduated scale upon every testing bottle referred to in subsection 3 shall be officially stamped or marked thereon under the authority of the Weights and Measures Branch of the Department of Trade and Commerce (Canada). 1938, c. 7, s. 10.

11. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make regulations, ^{Regulations.}

- (a) subject to the provisions of section 4 providing for the licensing of and issue of licences to plants of different classifications and for the renewal, suspension and cancellation of such licences and for the fees payable upon the issue and renewal thereof;
- (b) providing for the licensing of, and issue of licences and permits to cheesemakers, buttermakers, milk and cream testers and milk and cream graders and for the renewal, suspension and cancellation of such licences and for the fees payable upon the issue and renewal thereof;
- (c) prescribing the qualifications required by the holders of licences and permits;
- (d) regulating the transportation and hours of transportation of milk and cream to plants;
- (e) regulating the places where cream may be received or purchased for the purpose of being transported or forwarded to creameries;
- (f) providing for the selecting, grading, rejecting, weighing, sampling, testing and pasteurizing of milk and cream brought to plants, the manner of payment and the payment of premiums and differentials;
- (g) providing for the pasteurizing of all cream received at a creamery before being used in the manufacture of butter;
- (h) regulating the methods of manufacturing dairy products in plants;
- (i) requiring the use of clean and sanitary cans, pails, strainers, cream separators, cooling equipment, milk houses, stables and other utensils, equipment and buildings by patrons;
- (j) regulating the use of cans used for the delivery of milk or cream to a plant and requiring the pasteurization of whey or skim milk placed in such cans;
- (k) prescribing the method of construction and location of plants and machinery and other equipment used therein;

- (l) preventing the sale or delivery to plants of milk and cream from farms where the health of the cattle, the premises, utensils or other equipment is in the opinion of an inspector or of the Director unsatisfactory;
- (m) providing for the settlement of disputes in connection with the weighing, grading, sampling and testing of milk and cream;
- (n) prescribing the powers and duties of the Director and the inspectors;
- (o) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1938, c. 7, s. 11.

Penalty.

12.—(1) Every person who violates any of the provisions of this Act or the regulations for which no other penalty is provided shall be guilty of an offence and shall be liable to a penalty of not less than \$25 and not more than \$200.

Application
of Rev. Stat.,
c. 379.

(2) The penalties provided by this Act shall be recoverable under *The Summary Convictions Act*. 1938, c. 7, s. 12.

CHAPTER 87

The Damage by Fumes Arbitration Act

1. The Lieutenant-Governor in Council may from time to time appoint an arbitrator for the purposes of this Act and may limit his jurisdiction either territorially or as to subject matter, and may extend such limited jurisdiction or diminish it from time to time. R.S.O. 1937, c. 51, s. 1.

2.—(1) Subject to section 3, where damage is occasioned by sulphur fumes arising from the smelting or roasting of nickel-copper ore or iron ore, to crops, trees or other vegetation directly or indirectly, such damage may be determined by the arbitrator who shall have exclusive jurisdiction to determine the amount of such damage and to make an award. 1946, c. 16, s. 1.

(2) The remedies herein provided shall be in lieu of all remedies whether in law or in equity to which any person would be entitled but for the passing of this Act and no action shall be taken by way of injunction or otherwise. R.S.O. 1937, c. 51, s. 2 (2).

3.—(1) Notice of the damage shall be given by the person aggrieved to the person, company or corporation offending and to the arbitrator within seven days of such damage occurring, and in the absence of such notice the arbitrator may disallow any claim for compensation.

(2) Upon receipt of such notice it shall be the duty of the arbitrator to make an investigation and keep a record of the facts as he finds them in connection with each complaint.

(3) At any time before the 1st day of November of the year in which the damage is alleged to have occurred, the person aggrieved shall have the right to appeal to the arbitrator to determine compensation and the arbitrator shall thereafter as soon as may be convenient, notify both parties, hear such evidence as may be available, assess the damage and make the award in writing. R.S.O. 1937, c. 51, s. 3 (1-3).

(4) The arbitrator shall not be bound by the technical rules of evidence and all oral evidence submitted shall be

taken down in writing and together with such documentary evidence and things as are received in evidence by the arbitrator shall form the record. 1946, c. 16, s. 2.

Agreements
of
settlement.

(5) Nothing in this Act shall prevent the person aggrieved and the person, company or corporation offending from arriving at a mutually satisfactory settlement apart from the arbitrator. R.S.O. 1937, c. 51, s. 3 (4).

Effect of
award.

4. Subject to section 5, the award of the arbitrator shall be final and binding upon the parties and shall not be questioned, reviewed, restrained or removed by prohibition, injunction, *certiorari* or other process or proceeding in any court and on being filed in the office of the clerk of the county or district court such award shall, for the purpose of issuing execution thereon, have the same force and effect as a judgment of the court. 1946, c. 16, s. 3.

Appeal.

5.—(1) The person aggrieved or person, company or corporation offending, may appeal from the award of the arbitrator to the Ontario Municipal Board by serving or sending by prepaid mail notice in writing of such appeal to the arbitrator and to the person aggrieved, or the person, company or corporation offending, as the case may be, within 20 days of the making of the award as provided in subsection 3 of section 3.

Form of
notice.

(2) The notice shall set forth the grounds on which the appeal is made and shall have endorsed thereon the address at which the appellant may be served with any notice or process.

Summons to
attend;
dismissal
of appeal.

(3) Within 30 days from the service of the notice of the appeal the Ontario Municipal Board shall, upon the application of any appellant, grant a summons calling upon all parties to attend before it on the day and hour named therein when the hearing of the appeal will be proceeded with and if no such application is made within such 30 days, the Board upon proof of the failure to make such application, shall order that the appeal be forthwith dismissed with costs.

Appeal on
record.

(4) The appeal shall be heard and determined upon the record had and taken before the arbitrator and the Ontario Municipal Board may upon such hearing, make such order as it may deem fit affirming, reversing or amending the award appealed from and the award as affirmed, reversed or amended, or the order of the Board, as the case may be, shall have the same force and effect and may be enforced in the manner prescribed in section 4.

(5) The order of the Ontario Municipal Board shall be ^{Finality of order.} final and binding upon all parties and not subject to appeal.

(6) The Ontario Municipal Board shall have the same ^{General powers.} powers,

(a) to fix and collect fees;

(b) to fix and order the payment of costs; and

(c) to prescribe rules of practice and procedure,

with respect to appeals and proceedings under this Act as it has under *The Ontario Municipal Board Act*. 1946, c. 16, s. 4. ^{Rev. Stat., c. 262.}

6.—(1) A sum not exceeding \$10,000 in any year to cover ^{Expenses, how repayable to Province.} the expenses of administering this Act, including the salary or other remuneration of the arbitrator, shall be payable annually to the Province by the company or companies smelting or roasting nickel-copper ore or iron ore.

(2) The arbitrator at the close of each calendar year, ^{Arbitrator to assess companies liable.} shall assess and apportion the amount for which each company smelting or roasting nickel-copper ore or iron ore is liable under subsection 1, among such companies and the amount assessed against each company shall be payable to the Treasurer of Ontario within 15 days after the mailing of a registered letter demanding payment thereof to the last known address of the company, but every assessment so made shall be subject to the approval of the Minister of Mines. 1946, c. 16, s. 5.

7. The Lieutenant-Governor in Council may from time to ^{Regulations.} time make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 51, s. 7.

CHAPTER 88

The Day Nurseries Act

1. In this Act,

Interpre-
tation.

- (a) "day nursery" means any institution, agency or place, whether known as a day nursery, nursery school, kindergarten, play school, or under any other name, which for compensation or otherwise receives for temporary custody on a daily or hourly basis with or without stated educational purpose, during part or all of the day, apart from the parents, more than three children under six years of age and not of common parentage, but does not include a nursery school or kindergarten conducted as part of a public or separate school under *The Public Schools Act* or *The Separate Schools Act*;

Rev. Stat.,
cc. 316, 356.

- (b) "Minister" means Minister of Public Welfare. 1947, c. 26, s. 1.

2.—(1) The council of a local municipality within the meaning of *The Municipal Act* may by by-law provide for the establishment of day nurseries for the care and feeding of young children.

Establish-
ment of day
nurseries.
Rev. Stat.,
c. 243.

(2) A by-law passed under subsection 1 may provide for the establishment of day nurseries directly by the municipality or by any organization named in the by-law and approved by the Minister, but in either event, in order to qualify for a grant under this Act, the council of the municipality shall be responsible for the efficient and satisfactory operation thereof and for furnishing to the Minister such reports and other information as he may require. 1946, c. 17, s. 1.

Establish-
ment of day
nurseries by
municipality
or organiza-
tion.

3. There shall be paid to every local municipality in respect of every day nursery established under section 2 and which is conducted in accordance with the requirements of the regulations, an amount equal to one-half of the amount paid out or contributed by the local municipality for the operation and maintenance of the day nursery, computed in the manner prescribed by the regulations. 1946, c. 17, s. 2.

Contribu-
tion by
Province.

Regulations. **4.**—(1) The Lieutenant-Governor in Council may make regulations,

- (a) governing and regulating the operation of day nurseries;
- (b) requiring any class or classes of day nurseries to be licensed and providing for the issue, renewal, suspension and cancellation of licences;
- (c) prescribing the manner of computing the cost of operation and cost of maintenance of a day nursery for the purposes of section 3;
- (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Application of regulations. (2) The regulations mentioned in clauses *a*, *b* and *d* may be made applicable to day nurseries generally or may be restricted in their application to day nurseries established under section 2. 1946, c. 17, s. 3.

Penalties. **5.** Every person who contravenes any of the provisions of the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$50 for a first offence and not more than \$100 for a second or subsequent offence. 1946, c. 17, s. 4.

Appropriation of money. **6.** All sums payable under this Act shall be payable out of such moneys as may be appropriated therefor by the Legislature. 1946, c. 17, s. 5.

CHAPTER 89

The Debt Collectors Act

1. Every person, whether principal or agent, who prints or publishes any notice or form which is an imitation or a colour-able imitation of any of the forms appended to *The Division Courts Act*, or of other legal process, and which is calculated to deceive the public by inducing the belief that such notice or form is a notice or form from any court, or is part of the process of any court, or who issues or makes use of any such notice or form in connection with any collection agency or otherwise, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$20 for each offence. R.S.O. 1937, c. 309, s. 1.

Penalty for
issuing
imitations
of division
court
notices.
Rev. Stat.,
c. 106.

CHAPTER 90

The Definition of Time Act

- 1.—(1) Where an expression of time occurs in any Act or in any rule of court, by-law, deed or other instrument, heretofore or hereafter enacted or executed, or where any hour or other period of time is stated either orally or in writing, or any question as to a period of time arises, the time referred to or intended shall, unless it is otherwise specifically stated, be held to be "standard time". Meaning of expressions of time.
- (2) As regards that part of Ontario which lies east of the meridian of ninety degrees west longitude, standard time shall be reckoned as five hours behind Greenwich time. Standard time east of 90 degrees west longitude.
- (3) As regards that part of Ontario which lies west of that meridian, standard time shall be reckoned as six hours behind Greenwich time. West of that meridian.
- (4) The Lieutenant-Governor in Council may from time to time make regulations, and may from time to time amend, modify, suspend, repeal and re-enact such regulations, varying the reckoning of standard time as defined by subsections 2 and 3. Lieutenant-Governor in Council may vary reckoning of standard time.
- (5) Such regulations may authorize the Ontario Municipal Board to fix the time tables of all railways subject to its control, and to make such other orders as may be necessary for the convenient carrying out of the provisions of this Act, in so far as may be necessary or convenient for carrying out the regulations. R.S.O. 1937, c. 176, s. 1. Rearrangement of railway time tables, etc.
2. The expression "month", where it occurs or is stated as in section 1 mentioned, means a calendar month unless it is otherwise specifically stated. R.S.O. 1937, c. 176, s. 2. Interpretation.
3. The hours of the day may in any locality be numbered in one series up to twenty-four. R.S.O. 1937, c. 176, s. 3. Numbering hours of day.

CHAPTER 91

The Dental Technicians Act

1. In this Act,

- (a) "Board" means Governing Board of Dental Tech-^{Interpre-}
nicians; ^{tation.}
- (b) "dental technician" means any person who upon the prescriptions or orders of legally qualified dentists or physicians makes, produces, reproduces, constructs, furnishes supplies, alters or repairs any prosthetic denture, bridge, appliance or thing to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof;
- (c) "register" means register under this Act. 1946, c. 18, s. 1.

2.—(1) There shall be a board of governors to be known as ^{Board.} the Governing Board of Dental Technicians, to be composed of five persons to be appointed by the Lieutenant-Governor in Council. 1946, c. 18, s. 2 (1).

(2) Every member of the Board shall hold office for a period ^{Term of} of two years, but any member shall be eligible for re-appoint- ^{office.} ment at the expiration of his term of office. 1946, c. 18, s. 2 (2), *amended.*

(3) Every vacancy on the Board caused by the death, ^{Vacancies.} resignation or incapacity of a member may be filled by the appointment, by the Lieutenant-Governor in Council, of a person to hold office for the remainder of the term of such member.

(4) The Lieutenant-Governor in Council may designate one ^{Officers.} of the members of the Board to be the first chairman, one to be the first vice-chairman and one to be the first secretary-treasurer of the Board, and thereafter their successors in office shall be elected by the Board from time to time from among its members. 1946, c. 18, s. 2 (3, 4).

Regulations. **3.**—(1) Subject to the approval of the Lieutenant-Governor in Council the Board may make regulations,

- (a) providing for the admission of dental technicians to carry on business in Ontario and for the registration of all persons so admitted, including the fees payable for registration not exceeding \$25 for each person registered;
- (b) prescribing the qualifications of persons so to be admitted and the proofs to be furnished as to education and good character;
- (c) providing for maintaining a register of persons so admitted to carry on business and providing for the annual renewal of registration and prescribing the fees payable thereon not exceeding \$25 annually for each person registered;
- (d) prescribing the discipline and control of registered technicians, including the adoption and enforcement of any reasonable canons of ethics;
- (e) providing for the investigation of any complaint that a dental technician has been guilty of misconduct or displayed such incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (f) providing for the cancellation or suspension of the registration of any person found by the Board to be guilty of misconduct or to have been incompetent;
- (g) defining “misconduct” for the purpose of this section and the regulations;
- (h) providing for the payment of reasonable fees and disbursements to members of the Board in respect to the discharge of the duties of the Board;
- (i) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Submission
to College.

(2) All regulations made by the Board shall be submitted in writing to The Royal College of Dental Surgeons of Ontario not less than 30 days before being submitted to the Lieutenant-Governor in Council for approval, and any submissions on the part of the College with respect to any such regulations

shall be presented to the Lieutenant-Governor in Council with the application for approval of the regulations. 1946, c. 18, s. 3.

4.—(1) Any person registered under this Act shall have the ^{Designation;} right to use the designation “Registered Dental Technician” and may describe his business as a dental laboratory.

(2) No person shall be entitled to use the designation ^{use of,} “Dental Technician” or “Registered Dental Technician” or ^{prohibited.} any other name, title, initials or description implying that he is a dental technician, unless he is registered under this Act. 1946, c. 18, s. 4.

5. Nothing in this Act or the regulations shall apply to or ^{Right to} affect the practice of any profession or calling by any person ^{practise} practising the profession or engaged in the calling under the ^{profession.} authority of any general or special Act of the Legislature. 1946, c. 18, s. 5.

6.—(1) Nothing in this Act or the regulations shall be ^{Employee} deemed to prohibit any person from working as an employee ^{of dentist.} of a legally qualified dentist, and in the course of or as the whole or a part of his duties as such employee, performing for his employer work or services of a kind ordinarily performed by a dental technician.

(2) Nothing in this Act shall be deemed to prohibit, ^{Performance}

(a) a dentist within the meaning of *The Dentistry Act*; ^{of work}

(b) a physician within the meaning of *The Medical Act*; ^{by others.}

(c) a hospital dispensary, university or municipal clinic acting upon the prescription or order of a legally qualified dentist or physician; or

(d) apprenticed dental technicians and other persons working as employees of a registered dental technician,

from performing work or services ordinarily performed by a dental technician.

(3) Nothing in this section shall be deemed to permit any ^{General} person who is not a registered dental technician to engage ^{work} generally in the service of dentists or of two or more dentists ^{prohibited.} in the performance of the work of a dental technician but working in the service of a firm or association of dentists practising as partners or similarly associated with one another shall be deemed working in the service of one dentist. 1946, c. 18, s. 6.

Corpora-
tions.

7. Nothing in this Act shall be deemed to prohibit any registered dental technician from carrying on business as a dental technician through and in the name of a corporation where the corporation has a registered dental technician in charge of its operations, but in such case, each of such dental technicians shall be deemed guilty of any infringement of *The Dentistry Act* or of this Act or of the regulations thereunder committed by such corporation. 1946, c. 18, s. 7.

Rev. Stat.,
c. 92,
to apply.

8. Nothing in this Act or the regulations shall limit, alter or affect the application of any provision of *The Dentistry Act* or of any by-law made thereunder. 1946, c. 18, s. 8.

Offences
and
penalties.

9. Every person who, not being registered under this Act, carries on business or holds himself out as carrying on business as a dental technician or who advertises or uses or affixes any prefix to his name signifying that he is qualified to carry on business as a dental technician shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$50 for a first offence, \$100 for a second offence, and \$200 for a third or subsequent offence. 1946, c. 18, ss. 9, 12.

Proof of
registration.

10.—(1) In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the secretary-treasurer of the Board, shall be sufficient evidence of all persons who are registered dental technicians in lieu of the production of the original register, and any certificate upon such printed or other copy of the register purporting to be signed by any person in his capacity of secretary-treasurer of the Board, shall be *prima facie* evidence of his signature and appointment or election.

Idem.

(2) The absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to this Act.

Idem.

(3) In the case of any person whose name does not appear in such copy, a certified copy under the hand of the secretary-treasurer of the entry of the name of such person on the register shall be evidence that such person is registered under this Act. 1946, c. 18, s. 10.

Entitlement
to
registration.

11. Any person carrying on business as a dental technician on the 31st day of March, 1946, shall be entitled as of right to registration upon applying to the Board for registration and paying the fee for registration prescribed by the regulations. 1946, c. 18, s. 11.

CHAPTER 92

The Dentistry Act**1. In this Act,**Interpre-
tation.

- (a) "Board" means Board of Directors of the College;
- (b) "College" means The Royal College of Dental Surgeons of Ontario;
- (c) "dentistry" or "dental surgery" means any professional service usually performed by a dentist or dental surgeon and includes,
 - (i) the diagnosis or treatment of, and the prescribing, treating or operating for the prevention, alleviation or correction of any disease, pain, deficiency, deformity, defect, lesion, disorder or physical condition of, in or from any human tooth, jaw or associated structure or tissue or any injury thereto,
 - (ii) the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing or prescribing or advising the use of any prosthetic denture, bridge, appliance or thing for any of the purposes indicated in subclause i, or to replace, improve or supplement any human tooth, or to prevent, alleviate, correct or improve any condition in the human oral cavity, or to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof, and
 - (iii) the taking or making, or the giving of advice or assistance or the providing of facilities for the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of, or with a view to the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing of any such prosthetic denture, bridge, appliance or thing;

(d) "practice" means the practice of dentistry or dental surgery;

(e) "profession" means the profession of dentistry or dental surgery. 1942, c. 8, s. 1, *amended*.

College
continued.

2. The Royal College of Dental Surgeons of Ontario is continued, and every person who holds a valid and unforfeited certificate of licence to practise dentistry granted to him by the College shall be a member of the corporation. R.S.O. 1937, c. 227, s. 1.

Power as to
real estate.

3.—(1) The College may purchase, take and possess for the purposes of the College, but for no other purpose, and, after acquiring the same, may sell, mortgage, lease or dispose of any real estate.

Consent to
alienation,
etc., re-
quired.

(2) Such real estate shall not be sold, mortgaged, leased or disposed of, except with the consent of the Board given at a meeting duly called for that purpose and with the consent of the Minister of Education.

Notice of
meeting.

(3) Notice of such meeting shall be given to every member of the Board by letter mailed to his last registered address, seven days before the day appointed for the meeting, stating the object thereof. R.S.O. 1937, c. 227, s. 2.

Board of
Directors.

4.—(1) There shall continue to be a Board of Directors.

Number of
members.

(2) The Board shall consist of nine elected members each of whom shall be a member of the College and shall hold office for two years, and the Minister of Education and the Minister of Health who shall be *ex officio* members of the Board.

Quorum.

(3) The presence of at least five of the elected members of the Board shall be necessary to constitute a quorum.

One member
for each
electoral
district.

(4) One member shall be elected for each electoral district mentioned in the Schedule by the members of the College resident in the district, and every person so elected shall be a resident of the electoral district for which he is elected and no person shall be eligible for election as a representative of an electoral district who is a member of any dental faculty and in receipt of salary or other remuneration for his services thereon.

Member
from U. of T.

(5) One member shall be elected by and from the Faculty of Dentistry of the University of Toronto.

(6) A member of the Board may at any time resign his office by giving notice of his resignation in writing to the secretary, and in case of a vacancy occurring through resignation or otherwise, ^{Resignations and vacancies.}

(a) where the vacancy occurs in the representation of an electoral district more than two months prior to the holding of a general election, an election shall be held for the electoral district to fill the vacancy, and where the vacancy occurs not more than two months prior to the date of the general election, no person shall be elected or appointed to fill the vacancy;

(b) where the vacancy is in the representation of the Faculty of Dentistry, the remaining members of the Faculty shall elect a duly qualified person to fill the vacancy. R.S.O. 1937, c. 227, s. 3.

5. Ontario shall, for the purposes of this Act, be divided into eight electoral districts described in the Schedule. R.S.O. 1937, c. 227, s. 4. ^{Electoral districts.}

6.—(1) An election of the Board shall be held on the second Wednesday of December in every second year, reckoning from the year 1926. ^{Election of Board.}

(2) No person shall be qualified to vote at an election if he is in arrear in respect of any fees payable by him. ^{Qualification of voters.}

(3) The votes at an election shall be given by closed voting papers. ^{How votes to be given.}

(4) The manner of holding an election with respect to notification of the electors of the time and place of holding the election, the nomination of candidates, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, and other necessary details shall be determined by by-law of the Board, and in default of a by-law, may be prescribed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 227, s. 5. ^{Manner of election.}

7.—(1) Every newly elected Board shall hold its first meeting in the city of Toronto on the first Monday in May, or at such other time as may be fixed by the retiring Board, and the members of the Board shall hold office until the first meeting of their successors. ^{First meeting of Board.}

Subsequent meetings.

(2) Other meetings shall be held at such times and places as the Board appoints.

Special meetings.

(3) Special meetings may be called by the president at any time, and on the request in writing of four members of the Board he shall call a special meeting. R.S.O. 1937, c. 227, s. 6.

President and officers.

8.—(1) Every Board shall at its first meeting, elect a president and a vice-president and shall appoint a registrar, a treasurer and a secretary, and such other officers as the Board considers necessary, and any two or more of such appointive offices may be held by one person. 1942, c. 8, s. 2.

Remuneration of treasurer and secretary.

(2) The treasurer and the secretary shall receive such remuneration for their services as the Board may fix.

President, etc., *pro tempore*.

(3) The Board shall, if the president and vice-president are absent, elect one of its members to preside at its meeting, who, while so presiding, shall have the same powers and exercise the same functions as the president.

Executive committee.

(4) The Board shall annually appoint from among its members not more than five persons who shall constitute an executive committee to take cognizance of and action upon all such matters as may be delegated to it, or as may require immediate action or attention between meetings of the Board, but no action taken by the executive committee shall be valid unless agreed to by at least three members of the committee nor after the next ensuing meeting of the Board unless approved by the Board at that meeting, and the executive committee shall not have power to alter, amend or suspend any by-law of the Board. R.S.O. 1937, c. 227, s. 7 (2-4).

Remuneration of members of Board.

9. There shall be paid to the members of the Board such fees for attendances and such reasonable travelling expenses as may be fixed by by-law of the Board. R.S.O. 1937, c. 227, s. 8.

Funds payable to the treasurer.

10.—(1) All moneys under the control of the Board shall be paid to the treasurer, and shall be applied for the purposes of the College.

Grants for certain purposes.

(2) The Board may out of any funds in its hands from time to time make grants,

(a) for post-graduate courses and kindred educational extension work;

(b) for scholarship, lectureship and research work;

- (c) in aid of any fund which has for its purpose investigation in the interest of dental, medical and surgical science; or
- (d) in aid of any association or other body having for its object the protection of members of the College or the adjustment of claims against them for anything done in their professional capacity. R.S.O. 1937, c. 227, s. 9.

11.—(1) The Board shall make such by-laws as it may deem necessary for the proper and better guidance, govern-^{Power to make by-laws.}ment, discipline and regulation of the Board, the College, the members of the College and the profession of dental surgery, and the carrying out of this Act, and such by-laws shall be published for two consecutive weeks in *The Ontario Gazette*, and shall not take effect until so published.

(2) Such by-laws or any of them may be annulled by the ^{Annulment.}Lieutenant-Governor in Council. R.S.O. 1937, c. 227, s. 10.

12. The Board shall have power, subject to the approval ^{Dental hygienists.}of the Lieutenant-Governor in Council, to pass by-laws,

- (a) providing for the establishment, development, regulation and control of an ancillary body to be known as dental hygienists;
- (b) providing for the delegation to dental hygienists of the performance, under the direct control and supervision of a member of the College, of the services of cleaning and polishing teeth and the giving of instructions and demonstrations in oral hygiene and mouth care;
- (c) prescribing other specific dental duties of a minor nature that may be similarly delegated for performance by dental hygienists;
- (d) regulating the conditions and prescribing the qualifications for admission to such body;
- (e) prescribing the admission and annual fees payable by members of such body;
- (f) generally for the defining, regulating and controlling of the practice of dental hygiene. 1947, c. 28, s. 1.

13.—(1) The Board may appoint one or more examiners ^{Examination of students.}for the matriculation or preliminary examination of all stu-

dents entering the profession, or may accept in lieu of such matriculation or preliminary examination evidence that a student has passed any other satisfactory examination.

Idem.

(2) Such examination shall be passed prior to being entered as a student of dentistry. R.S.O. 1937, c. 227, s. 11.

Curriculum
for students,
etc.

14.—(1) The Board may prescribe a curriculum of studies to be pursued by students, and fix and determine the period for which every student shall be articulated and employed under a duly licensed practitioner, the examination necessary to be passed and the fees to be paid to the treasurer before a certificate of licence to practise dental surgery is issued.

Admission
of other
persons.

(2) The Board may prescribe the conditions upon which dentists residing elsewhere than in Ontario, and students and graduates from other dental colleges may be admitted to membership in the College. R.S.O. 1937, c. 227, s. 12.

Arrange-
ments for
education
of students.

15. Subject to the approval of the Lieutenant-Governor in Council, the College may make arrangements with any university or college in Ontario for the use of any library, museum or property belonging to or under the control of such university or college, and may affiliate with any such university or college, and may enter into all arrangements necessary to that end upon such terms as may be agreed upon. R.S.O. 1937, c. 227, s. 13.

Approval
for dental
courses.

16.—(1) No person shall conduct any course for training or imparting instruction in any branch of dentistry or shall grant degrees in dentistry without the approval of the Lieutenant-Governor in Council upon the recommendation of the Minister of Health.

Revocation
of approval.

(2) Upon the recommendation of the Minister of Health the Lieutenant-Governor in Council may at any time revoke any approval given under this section. 1947, c. 27, s. 1.

Annual ex-
aminations.

17.—(1) The Board, once at least in every year, shall cause to be held at a time fixed by the Board, an examination of the candidates for certificates and such titles as the Board has authority to grant.

How and
by whom
conducted.

(2) At every such examination the candidates shall be examined orally or in writing or otherwise, by examiners to be appointed for that purpose by the Board, in such subjects as the Board prescribes.

Fees of
examiners.

(3) The examiners shall receive such remuneration as may be fixed by the Board.

(4) Each examiner shall, if required, subscribe and take the following declaration: Declaration by examiners.

I solemnly declare that I will perform my duty of Examiner without fear, favour, affection or partiality towards any candidate, and that I will not knowingly allow to any candidate any advantage which is not equally allowed to all.

(5) The Board may dispense with such examination in the case of any person who proves to the satisfaction of the Board that he has passed in any university or college an examination which the Board deems of equal value. Accepting other examination as substitute. R.S.O. 1937, c. 227, s. 14.

18.—(1) If the Board is satisfied by the examination that the candidate is duly qualified to practise the profession of dental surgery, and that he is a person of integrity and good moral character, it shall, subject to the by-laws, grant him a certificate of licence and the title of "Licentiate of Dental Surgery", which certificate and title shall entitle him to all the rights and privileges conferred by this Act. Certificate of qualification to practise.

(2) The Board shall hold at least one meeting in each year in the city of Toronto for the purpose of granting such certificates and titles and for the transaction of such other business as may properly come before it. Annual meeting. R.S.O. 1937, c. 227, s. 15.

19. Every certificate of licence shall be sealed with the corporate seal of the College and signed by the president and secretary of the Board, and the production of such certificate of licence shall be *prima facie* evidence in all courts and upon all proceedings of its execution and contents. Issue of certificate. R.S.O. 1937, c. 227, s. 16.

20. The secretary of the Board shall, on or before the 15th day of January in each year, transmit to the Provincial Secretary a certified list of the names of all persons to whom certificates of licence have been granted during the year ending on the next preceding 31st day of December. Return of licenses granted. R.S.O. 1937, c. 227, s. 17.

21. Every person desirous of obtaining a licence to practise dentistry in Ontario shall at least one month before the prescribed examination make application in the form prescribed by the Board and pay to the treasurer the prescribed fees, and deliver to the secretary the treasurer's receipt for the same, together with satisfactory evidence of his service under articles and compliance with the rules and regulations pre- Prepayment of examination fees.

scribed by the Board, and of his integrity and good morals.
R.S.O. 1937, c. 227, s. 18.

Annual fees.

22.—(1) Every member of the College engaged in the practice of dental surgery in Ontario shall, on or before the 1st day of January in each year, pay to the treasurer, or to a person deputed by him to receive the same, such annual registration fee, not exceeding \$25, as may be prescribed by by-law of the Board, and such fee shall be recoverable by suit in the name of the Royal College of Dental Surgeons of Ontario in the division court of the division in which the member in default resides. R.S.O. 1937, c. 227, s. 19 (1); 1947, c. 28, s. 2.

Result of default in payment of annual fee.

(2) For any services rendered in the practice of dental surgery while he is in default in respect of any annual fee a member shall not be entitled to recover in any court.

Default in payment of fee.

(3) Where default is made in payment of the annual fee and such default continues for a period of one month, the licence of a member so in default shall lapse but such licence may be renewed thereafter upon payment of the fee and an additional sum not exceeding \$10 as may be prescribed by by-law of the Board and such sum shall be recoverable in the same manner as the annual fee as set out in subsection 1. R.S.O. 1937, c. 227, s. 19 (2, 3).

Prohibition against practising without certificate.

23.—(1) No person who is not a member of the College shall, by himself or by any other person,

- (a) practise or hold himself out as qualified or entitled to practise the profession of dentistry or any branch thereof;
- (b) provide or perform any service, act or operation which is part of the practice of dentistry or any branch thereof, or undertake or purport to provide or perform any such service, act or operation;
- (c) make, produce, reproduce, construct, furnish, supply, alter or repair any prosthetic denture, bridge, appliance or thing to replace, improve or supplement any human tooth, or to prevent, alleviate, correct or improve any condition in the oral cavity, or to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof, or give any advice or assistance in connection therewith, except on the prescription or instructions of a member of the College and, where the use of a design, impression or

cast is necessary, except by the use of a design, impression or cast furnished by a member of the College with such prescription or instructions;

- (d) take or use any name, title, addition or description representing or implying that he holds a certificate of licence to practise dentistry or that he is a member of the College; or
- (e) represent that he is, or take or use any name, title, addition or description representing or implying that he is a graduate of any dental college or that he practises or is entitled or qualified to practise dentistry or any branch thereof, or which contains the words "dentist", "dentistry", "dental", "dental surgeon", or "dental surgery", or any similar word or words or any derivative thereof or any letters, signs or abbreviation having a similar significance.

(2) It shall be the duty of every member of the College to furnish to the dental technician or other person instructed by him to undertake or perform any work or service or give any advice or assistance in clause *c* of subsection 1 described, a written prescription therefor signed by such member, and where necessary, a design, impression or cast, at the time of giving such prescription or instructions. Furnishing written prescription.

(3) No work, service, advice or assistance, in clause *c* of subsection 1 described, which is undertaken, performed or given by any person pursuant to a prescription or instructions of a member of the College, and by the use of a design, impression or cast furnished by a member of the College with such prescription or instructions, where a design, impression or cast is necessary, shall be deemed to be a contravention of this section. 1942, c. 8, s. 3 (1). What not to be deemed contravention of section.

(4) No work, service, advice or assistance that is part of the practice of dental hygiene and that is undertaken, performed or given by any dental hygienist in the office or clinic of a member of the College and under his supervision and control, shall be deemed to be a contravention of this section. 1947, c. 28, s. 3. Idem.

(5) Except with the written permission of the Board, no person in pursuit of his business, trade or calling shall have in any place dental equipment of a character similar to that with which a place of business of a member of the College is equipped, and which equipment would enable the person generally to practise dentistry or any branch thereof, and the Dental equipment, restriction as to use by unqualified person.

presence of such equipment in such place shall be *prima facie* evidence that the practice of dentistry is being carried on therein. R.S.O. 1937, c. 227, s. 20 (2); 1942, c. 8, s. 3 (2).

Prohibitions
as to persons
other than
College es-
tablishing
college, etc.

(6) No person, other than the College, shall carry on in Ontario any school, college, laboratory or other institution for training or imparting instruction in any branch of dentistry or give instructions or courses in practice management without the consent of the Board, but this shall not apply to any faculty of dentistry in a university in Ontario.

Penalties.

(7) Every person who contravenes any of the provisions of this section shall be guilty of an offence and for the first offence shall be liable to a penalty of \$100, for the second offence, a penalty of \$200, and for every subsequent offence, a penalty of \$500, and he shall not be entitled to sue or recover in any court for any services which he performed or materials which he provided in the ordinary and customary work of a dental surgeon.

Saving as
to students.

(8) This section shall not prevent any duly articulated student of dental surgery from receiving instruction in clinics and practice under the personal supervision of a member of the College.

Recovery
and
application.
Rev. Stat.,
c. 379.

(9) The penalties shall be recoverable under *The Summary Convictions Act*, and shall be paid over by the convicting justice to the treasurer of the College. R.S.O. 1937, c. 227, s. 20 (3-6).

Power to
enter and
search
premises.

(10) Upon information on oath by any duly authorized agent of the College that he has reasonable cause to believe that there is in any building or premises, any dental equipment which is being, has been or is likely to be used contrary to this Act, or that any prosthetic denture, bridge, appliance or thing is being, has been or is likely to be made, produced, reproduced, fitted, constructed, furnished, supplied, altered or repaired, contrary to this Act, it shall be lawful for any justice of the peace, by warrant under his hand, to authorize and empower such agent or any other person named therein to enter and search the building or premises and every part thereof at any time and for that purpose to break open any door, lock or fastening of the building or premises or any part thereof, or any closet, cupboard, box or any receptacle therein that might contain any such dental equipment, prosthetic denture, bridge, appliance or thing. 1942, c. 8, s. 3 (3).

Onus of
proof.

24. In any prosecution under section 23 the burden of proof,

- (a) of membership in the College;
- (b) that a prescription was or instructions were given by a member of the College; and
- (c) that any design, impression or cast used in complying with such prescription or instructions was furnished by a member of the College,

shall be upon any person charged with a violation of this Act. 1942, c. 8, s. 4.

25.—(1) The Board may suspend or cancel the certificate of licence of a member of the College who has been heretofore or shall hereafter be convicted in Canada or elsewhere of an indictable offence if his conviction remains unreversed, or who has been or shall be guilty of any infamous, disgraceful or improper conduct in a professional respect and such infamous, disgraceful or improper conduct in a professional respect shall be deemed to include fraudulent and exorbitant charging of fees, but this power shall not be exercised if the conviction is for a political offence committed out of His Majesty's dominions, or for an offence which, though indictable, ought not, either from its nature or from the circumstances under which it was committed, to disqualify the person convicted from practising dentistry.

Suspension
and can-
cellation of
certificates.

(2) Where a member has been guilty of infamous, disgraceful or improper conduct in a professional respect, the power conferred by subsection 1 may be exercised notwithstanding that he has been acquitted of a criminal charge in respect of the same matter.

Notwith-
standing
acquittal of
criminal
charge.

(3) The Board or the executive committee of its own motion may, or, upon the application in writing of four members of the College, the president shall instruct the discipline committee to inquire into any case in which it is alleged that a member of the College has become liable to the suspension or cancellation of his certificate of licence for any of the causes mentioned in subsection 1. R.S.O. 1937, c. 227, s. 22.

Inquiry as to
suspension
or cancella-
tion of
certificate.

26.—(1) The Board shall appoint and shall always maintain a discipline committee of its own body for the purpose of ascertaining the facts of each case which may become the subject of inquiry.

Discipline
committee.

(2) The committee shall consist of not more than five members as the Board may prescribe, three of whom shall be a quorum.

Number.

Secretary
may be
member.

(3) The Board may by by-law provide that the secretary of the Board shall be a member of the committee.

By-laws as
to tenure
of office,
proceedings.

(4) The Board may pass by-laws for determining the tenure of office of the members of the committee and for the regulation and conduct of its proceedings.

Time, place
and notice
of meetings.

(5) Subject to this section and to the by-laws of the Board, the committee may regulate the time and place for the holding, the manner of the convening and giving notice, and the conduct of its meetings.

Appoint-
ments to
fill vacancies.

(6) If a vacancy occurs in the membership of the committee, the remaining members may appoint a member of the Board to fill the vacancy, and the member appointed shall hold office until the next meeting of the Board.

Quorum of
committee.

(7) Notwithstanding any vacancy in the committee, so long as there are at least three members thereof, it shall be competent for the committee to exercise all or any of its powers.

Employ-
ment of
assistance.

(8) The committee may employ, at the expense of the Board, for the purposes of any inquiry, such legal or other assistance as the committee may deem necessary.

Appearance
by counsel.

(9) The member whose conduct is the subject of inquiry shall have the right to be represented by counsel.

Place of
meeting.

(10) All meetings of the committee for taking evidence or otherwise ascertaining the facts shall be held within the county or district in which the member whose conduct is the subject of inquiry resides, unless such member and the Board agree to the meeting being held at the city of Toronto.

Notice of
meeting.

(11) At least 10 days notice of the meeting of the committee for taking the evidence or otherwise ascertaining the facts shall be given to the member whose conduct is the subject of inquiry.

Contents of
notice.

(12) The notice shall contain a statement of the matter which is to form the subject of the inquiry.

Evidence
on oath.

(13) The testimony of the witnesses shall be taken under oath, which the chairman or any member of the committee may administer, and there shall be full right to cross-examine all witnesses called and to adduce evidence in defence and in reply.

Effect of
non-
appearance.

(14) If the person whose conduct is the subject of the inquiry though duly notified does not attend, the committee

may proceed in his absence, and he shall not be entitled to notice of the future meetings or proceedings of the committee.

(15) The committee and any party to the proceedings may obtain on *praecipe* from the Supreme Court a subpoena for the attendance of witnesses and the production of books, documents and things, and disobedience thereof shall be deemed a contempt of court. Subpoenas.

(16) Witnesses shall be entitled to the like allowances as witnesses attending upon the trial of an action in the Supreme Court. Witness fees.

(17) The committee shall report to the Board the evidence adduced and the committee's findings thereon. Report.

(18) The Board may act upon the report of the committee and may make such order thereon as the Board may deem just. Acting upon report.

(19) Where the complaint is found to be frivolous or vexatious, the Board may pay such costs as to it may seem just to a member whose conduct has been the subject of inquiry. Costs of vexatious complaint.

(20) Where the Board directs the certificate of licence of a member to be suspended or cancelled, it may direct that the costs of and incidental to the inquiry be paid by such member, and after taxation of such costs by the taxing officer of the Supreme Court at Toronto, execution may issue out of the Supreme Court for the recovery thereof in like manner as upon a judgment in an action in that court. Costs of inquiry.

(21) The costs to be taxed and allowed against a member, including the costs of appeal, if any, shall as far as practicable be the same or the like costs as in an action in the Supreme Court, and the taxing officer may also allow such fees and disbursements for work done or proceedings taken before notice of complaint as he may deem just. R.S.O. 1937, c. 227, s. 23. Costs to be similar to those in action in Supreme Court.

27. No action shall be brought against the Board or the committee or any member thereof for anything done in good faith under this Act on account of any want of form or irregularity in their proceedings. R.S.O. 1937, c. 227, s. 24, *part*. No action to lie against Board or committee.

28.—(1) Any member whose certificate of licence has been suspended or cancelled may, at any time within one month Appeal.

from the date of the decision of the Board, appeal from the decision of the Board to the Court of Appeal. R.S.O. 1937, c. 227, s. 24, *part*.

Practice and
procedure
on appeal.

Rev. Stat.,
c. 75.

(2) The practice and procedure upon and in relation to an appeal shall be similar to that provided by *The County Courts Act* except that the proceedings and evidence shall be certified by the registrar to the Court of Appeal. R.S.O. 1937, c. 227, s. 25.

Restoration
of certificate.

29. The Board may direct the restoration of the certificate of licence of any member whose certificate has been cancelled under the powers conferred by this Act upon such terms and conditions as the Board may deem just. R.S.O. 1937, c. 227, s. 26.

Action for
malpractice,
etc.

30. No duly registered member of the College shall be liable to any action for negligence or malpractice by reason of professional services requested or rendered, unless the action is commenced within six months from the date when in the matter complained of such professional services terminated. R.S.O. 1937, c. 227, s. 27.

Saving as to
qualified
medical
practitioners.
Rev. Stat.,
c. 228.

31. Nothing in this Act shall affect or interfere with the rights and privileges conferred upon legally qualified medical practitioners by *The Medical Act*. R.S.O. 1937, c. 227, s. 28.

SCHEDULE

ELECTORAL DISTRICTS

Electoral District No. 1 shall consist of the following counties: Addington, Carleton, Dundas, Frontenac, Glengarry, Grenville, Lanark, Leeds, Lennox, Prescott, Russell, Renfrew, and Stormont.

Electoral District No. 2 shall consist of the following counties and district: Durham, Haliburton, Hastings, Northumberland, Ontario, Prince Edward, Peterborough, and Victoria, and Muskoka.

Electoral District No. 3 shall consist of the following districts: Algoma, Kenora, Manitoulin, Nipissing, Parry Sound, Rainy River, Sudbury, Thunder Bay, Cochrane and Timiskaming.

Electoral District No. 4 shall consist of the city of Toronto.

Electoral District No. 5 shall consist of the following counties: Bruce, Dufferin, Grey, Huron, Perth, and Simcoe.

Electoral District No. 6 shall consist of the following counties: Elgin, Essex, Kent, Lambton, and Middlesex.

Electoral District No. 7 shall consist of the following counties: Brant, Haldimand, Norfolk, Oxford, Waterloo, and Wellington.

Electoral District No. 8 shall consist of the following counties: Halton, Lincoln, Peel, Welland, Wentworth, and York (except Toronto).

R.S.O. 1937, c. 227, Sched. A; 1947, c. 28, s. 4.

CHAPTER 93

The Department of Agriculture Act

1. In this Act,

Interpre-
tation.

(a) "Department" means Department of Agriculture;

(b) "Minister" means Minister of Agriculture. R.S.O.
1937, c. 73, s. 1, *amended*.2. The Department shall be presided over by the Minister. Minister
R.S.O. 1937, c. 73, s. 2. to preside.3. Subject to *The Public Service Act*, there may be appointed Deputy
a Deputy Minister of Agriculture and such other officers, Minister
clerks and servants as the Minister may deem necessary for the and staff.
proper conduct of the business of the Department. Rev. Stat.,
R.S.O. 1937, c. 73, s. 3. c. 317.4. Subject to *The Executive Council Act*, the Minister shall Powers of
have the direction and control of, Minister.Rev. Stat.,
c. 121.(a) the administration of the law relating to agriculture
in all its branches;(b) the administration of appropriations under the De-
partment;

(c) the Ontario Agricultural College;

(d) the Ontario Veterinary College,

and shall have and perform such other functions, duties and
powers as may be assigned to him by the Lieutenant-Governor
in Council. R.S.O. 1937, c. 73, s. 4.5. Where any work of the Department is carried on else- Appointment
where than at the seat of Government, the Minister may and re-
appoint such officers, clerks, servants and labourers as he may muneration
deem necessary and may fix their salaries or other remunera- of outside
tion, and may designate the appropriation against which the employees.
same shall be charged and such salaries and other remunera-
tion shall be payable out of such appropriation accordingly.
R.S.O. 1937, c. 73, s. 5.

Annual
report by
Minister.

6. The Minister shall in each year submit to the Lieutenant-Governor in Council a report of the proceedings of the Department during the next preceding fiscal year, and such report shall be laid before the Assembly forthwith, and if the Legislature is not at the time in session, then within 30 days after the commencement of the next session thereafter. R.S.O. 1937, c. 73, s. 6.

CHAPTER 94

The Department of Education Act

1. In this Act,

Interpre-
tation.

- (a) "board" means a board of public school trustees, board of separate school trustees, high school board or board of education;
- (b) "Department" means Department of Education;
- (c) "Minister" means Minister of Education;
- (d) "Registrar" means Registrar of the Department;
- (e) "regulations" means regulations made by the Minister and approved by the Lieutenant-Governor in Council under this Act. R.S.O. 1937, c. 356, s. 1; 1943, c. 26, s. 4.

2.—(1) There shall be a department of the public service to be known as the Department of Education over which the Minister shall preside and have charge.

Depart-
ment of
Education.

(2) The Lieutenant-Governor in Council may appoint a Deputy Minister of Education and a Registrar of the Department of Education. R.S.O. 1937, c. 356, s. 2.

Deputy
Minister
and
Registrar.

3.—(1) The Minister shall have the administration and enforcement of the statutes and regulations respecting public schools, separate schools, kindergarten departments, supervised and outdoor playgrounds, consolidated schools, high schools, collegiate institutes, continuation schools, vocational schools, school cadet corps, all departments of any such schools, night schools, school gardens, school libraries, public libraries, travelling libraries, library institutes and of all other schools supported in whole or in part by public money which may hereafter be established, unless other provision is made in the Act by which the school is established.

Powers of
Minister.

(2) The Minister shall have the management and control of model schools, normal schools, the college of education, teachers' institutes, summer and vacation schools and schools for the education of the deaf and dumb and the blind.

Management
of schools
and
institutions.

Appointment of inspectors, teachers and officers. (3) The Minister may appoint such inspectors, teachers and officers for purposes of instruction, supervision and administration as he may deem expedient.

Prescribing duties of officers. (4) Subject to this Act and the regulations, the Minister may prescribe the duties of the Registrar and of all other officers of the Department. R.S.O. 1937, c. 356, s. 3.

Regulations. 4.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations with respect to schools or classes established under *The Auxiliary Classes Act*, *The Continuation Schools Act*, *The High Schools Act*, *The Public Schools Act*, *The Separate Schools Act*, *The Vocational Education Act*, *The Schools for the Deaf and Blind Act* or this Act and all other schools supported in whole or in part by public money,

Rev. Stat.,
cc. 29, 66,
165, 316,
356, 413,
350.

- (a) for the establishment, administration and government thereof and the courses of study and examinations therein;
- (b) for the admission of pupils thereto;
- (c) for the establishment and regulation of cadet corps, gardens and libraries therein;
- (d) prescribing the qualifications and governing the appointment of teachers, inspectors, directors, superintendents and other officials;
- (e) prescribing the accommodation and equipment of school buildings and the arrangement of school premises;
- (f) prescribing the form of contract which shall be used for every contract entered into between a board and a teacher for the services of the teacher;
- (g) prescribing the terms and conditions which shall be deemed to be part of every contract entered into between a board and a teacher for the services of the teacher whether or not such terms and conditions are actually set out in the contract;
- (h) providing for and governing the exchange of teachers between Ontario and other parts of Canada and the Commonwealth of Nations;
- (i) authorizing text-books and books of reference for the use of pupils, teachers and teachers-in-training;

- (j) requiring boards to purchase books for the use of pupils in schools under the charge of the boards;
- (k) prescribing fees to be paid by candidates at examinations;
- (l) prescribing fees to be paid to presiding officers and examiners in connection with departmental examinations and by whom and in what manner such fees and other expenses in connection with such examinations shall be borne and paid;
- (m) providing for the establishment of supervising examination boards and prescribing the duties thereof;
- (n) for conducting examinations and settling the results thereof;
- (o) for granting diplomas and certificates of standing;
- (p) for establishing scholarships and prescribing the rules which shall govern the awarding thereof and the terms and conditions to which the scholarships shall be subject;
- (q) respecting the use of schools for purposes of observation and practice teaching by teachers-in-training;
- (r) governing the granting of temporary, interim, special, permanent and other certificates of qualification and the suspension and cancellation thereof;
- (s) prescribing the qualifications and experience which will be recognized for the purpose of,
 - (i) qualifying persons to teach,
 - (ii) admitting persons to schools, and
 - (iii) permitting persons to write examinations;
- (t) for the medical and dental inspection of pupils in public and separate schools where provision for such inspection was inaugurated by the boards of such schools prior to the 31st day of July, 1924, provided the regulations therefor are first approved by the Minister of Health;

- (u) providing for the affiliation of collegiate institutes, high schools, public schools and separate schools with universities, normal schools and model schools;
- (v) governing the establishment and maintenance of public schools on lands held by the Crown in right of Canada or Ontario, and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools out of the moneys appropriated by the Legislature therefor; 1947, c. 29, s. 1, *part.*
- (w) governing the attendance at public, separate, high, continuation and vocational schools and collegiate institutes of pupils residing on lands held by the Crown in right of Canada or Ontario, or the payment of the cost of education of such pupils; 1947, c. 29, s. 1, *part.*; 1948, c. 22, s. 1 (1).
- (x) governing the transportation of pupils to and from public, separate, high, continuation and vocational schools and collegiate institutes;
- (y) providing for assistance in the payment of the cost of education and transportation costs of pupils residing in the territorial districts and on lands held by the Crown in right of Canada or Ontario;
- (z) providing for assistance in the payment of the cost of transportation to universities and other institutions of higher learning of persons residing in the territorial districts; 1947, c. 29, s. 1, *part.*
- (za) fixing the method of calculating the cost of education of pupils residing on lands held by the Crown in right of Canada and authorizing boards,
 - (i) to charge those pupils a fee in accordance with that method, or
 - (ii) instead of charging those pupils a fee, to enter into an agreement with Canada for the payment of an amount in lieu of the fee;
- (zb) providing for the apportionment and distribution of all money appropriated or raised by the Legislature for educational purposes;

(zc) prescribing definitions of,

(i) "approved cost", and providing for the approval of the Minister as a condition in the definition, and

(ii) "cost of operating",

for the purpose of legislative grants to boards;

(zd) prescribing the conditions governing the payment of legislative grants. 1948, c. 22, s. 1 (2).

(2) Subject to the approval of the Lieutenant-Governor ^{Idem.} in Council, the Minister may make regulations,

(a) providing for programmes of adult education, recreation, camping, and athletics and physical education;

(b) prescribing definitions of "area community-programme", "area recreation-committee", "area recreation-director", "assistant", "community programme", "director", "joint community-programme", "joint recreation-committee", "municipal council", "recreation" and "recreation committee";

(c) prescribing a definition of "approved maintenance and operating costs", and providing for the approval of the Minister as a condition in the definition, for the purpose of legislative grants for programmes of recreation;

(d) providing for the apportionment and distribution of all money appropriated or raised by the Legislature for,

(i) programmes of adult education, recreation, camping, and athletics and physical education,

(ii) the Provincial Athletic Training Camp, and

(iii) the maintenance of historical, literary and scientific institutions;

(e) prescribing the conditions governing the payment of grants for,

(i) programmes of adult education,

(ii) programmes of recreation, camping, or athletics and physical education, and provid-

ing for the approval of the Minister in any condition, or

- (iii) the maintenance of historical, literary and scientific institutions;

(f) authorizing,

- (i) municipal councils to appoint recreation committees, or two or more municipal councils of municipalities having a combined population of under 25,000 to appoint joint recreation-committees, but only with the approval of the Minister,
- (ii) recreation committees or joint recreation-committees to appoint directors, assistants and secretaries,
- (iii) joint recreation-committees, or recreation committees in municipalities having a population of at least 25,000, to appoint area recreation-committees and area recreation-directors, and
- (iv) two or more municipalities to enter into agreements,

for the purpose of programmes of recreation;

- (g) prescribing the composition of recreation committees, joint recreation-committees and area recreation-committees, and fixing the number of members thereof, for the purpose of programmes of recreation;
- (h) authorizing the Minister to determine the number of assistants and area community-programmes in respect of which grants may be paid for programmes of recreation;
- (i) authorizing the payment of special grants for programmes of recreation, but only with the approval of the Minister;

(j) fixing the amount of the grants under clause *i*.

"Athletics and physical education".

(3) In subsection 2, "athletics and physical education" includes recreation for crippled persons under the age of 19 years. 1948, c. 22, s. 1 (3).

5. It shall be the duty of the Minister and he shall have power, Powers and duties of Minister.

- (a) to apportion and pay all sums received for educational purposes from the Government of Canada or any source other than an appropriation by the Legislature, in accordance with the terms of the grant, if any, and otherwise in any manner he may deem fit;
- (b) to appoint the members of supervising examination boards and to prescribe the remuneration, including allowances for travelling and other expenses, to be paid to each member thereof;
- (c) to pay out of any appropriation for professional training schools the travelling and other expenses and such *per diem* allowance as may be fixed by the Minister for living expenses of students attending such schools whenever the Minister deems such payment necessary or desirable;
- (d) to accept in lieu of any requirement prescribed for a teacher, head of a department, director, inspector, or a candidate for a certificate, such evidence of experience, academic scholarship or professional training as he may deem equivalent thereto;
- (e) to grant certificates of qualification as teachers and instructors in the Ontario School for the Blind and the Ontario School for the Deaf, to such persons as he may deem to be, from their experience and general attainments, qualified to receive such certificates;
- (f) to require all teachers to submit periodically to medical examination;
- (g) to submit a case on any question arising under *The Public Schools Act*, *The High Schools Act* or *The Separate Schools Act*, or this Act, to a judge of the Supreme Court for his opinion and decision, or by the leave of a judge of such court, to the Court of Appeal for its opinion and decision; Rev. Stat., c. 316, 165, 356.
- (h) to determine all disputes and complaints laid before him, the settlement of which is not otherwise provided for by law, and all appeals made to him from a decision of a principal, inspector or other school officer;

(i) to suspend or cancel any certificate of qualification granted under the regulations;

(j) to appoint as a commission one or more persons, as he may deem expedient, to inquire into and report upon any school matter, with all the powers which may be conferred on commissioners under *The Public Inquiries Act*;

Rev. Stat.,
c. 308.

(k) to report annually to the Lieutenant-Governor upon the condition of education in Ontario, with such suggestions for the improvement thereof as he may deem expedient;

(l) to make use of any public, separate, continuation, high or vocational school for the purposes of observation and practice teaching by teachers-in-training at any provincial teacher-training school or college;

(m) subject to the regulations, to prescribe subjects, time allotments for subjects, text-books and reference books for schools or classes established under *The Auxiliary Classes Act, The Continuation Schools Act, The High Schools Act, The Public Schools Act, The Separate Schools Act, The Vocational Education Act, The Schools for the Deaf and Blind Act* or this Act and all other schools supported in whole or in part by public money. 1947, c. 29, s. 2.

Rev. Stat.,
cc. 29, 66,
165, 316,
356, 413,
350.

Annual
report.

6.—(1) The Minister shall, after the close of the calendar year, file with the Provincial Secretary an annual report upon the affairs of the Department.

Tabling.

(2) The Provincial Secretary shall submit the report to the Lieutenant-Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. 1950, c. 73, s. 2.

Certificates
of qualifica-
tion to per-
sons other
than British
subjects.

7. Notwithstanding anything in this or any other Act, the Minister may, in his discretion, grant,

(a) a temporary certificate of qualification as a teacher to any person who, although not a British subject, has applied for naturalization and whose application for naturalization is pending, where the Minister deems the employment of such person necessary for special reasons; or

(b) a certificate of qualification as a teacher of French, Italian or Spanish to any person who is not a British

subject and who possesses the other qualifications prescribed by the regulations and who has served in the military or naval forces of Great Britain or any of her Allies during World War I. R.S.O. 1937, c. 356, s. 6.

8.—(1) The Lieutenant-Governor in Council may, upon the recommendation of the Minister, for and in the name of the Province, guarantee the payment of any debentures issued by a board of public school trustees or a board of separate school trustees or by a municipal corporation in a provisional judicial district for any school purpose for which such board or municipal corporation is authorized to issue debentures, and to an amount not exceeding \$150,000 guarantee the investments of any penny bank or similar institution mentioned in clause *za* of section 93 of *The Public Schools Act* and subsection 1 of section 29 of *The High Schools Act*, which has for one of its objects the encouragement of thrift among school pupils and is approved by the Minister.

Guaranteeing school debentures and penny bank investments.

Rev. Stat., cc. 316, 165.

(2) The form of the guarantee and the manner of its execution shall be determined by the Lieutenant-Governor in Council, and every guarantee given or purporting to be given under the authority of this section shall be binding upon the Province and shall not be open to question upon any ground whatsoever.

Form of guarantee.

(3) Any debenture issued by a municipal corporation or board of school trustees, payment of which is guaranteed on behalf of the Province under this section, shall be valid and binding upon the municipal corporation or the board of school trustees, as the case may be, by which it is issued, and the ratepayers thereof, according to its terms, and the validity of any debenture so guaranteed shall not be open to question on any ground whatsoever. R.S.O. 1937, c. 356, s. 7.

Validity of guaranteed debenture.

9. Notwithstanding anything in any Act fixing the rate of interest to be paid or credited to any school corporation by the Treasurer of Ontario upon school securities, sinking funds or debentures deposited with or in the hands of the Treasurer of Ontario either as an investment by the Province or for investment on behalf of a school corporation, the rate at which interest shall be allowed to, paid by, or credited to a school corporation upon any such securities, sinking funds or debentures heretofore or hereafter deposited with or purchased by the Treasurer of Ontario shall be the current rate of interest as fixed from time to time by the Lieutenant-Governor in Council, to be based upon the average rate of interest actually payable upon the moneys borrowed on behalf of Ontario as a provincial loan and then outstanding. R.S.O. 1937, c. 356, s. 8.

Fixing current rate of interest on debentures, etc., held by Treasurer.

Closing of
school or
grade.

10.—(1) The Lieutenant-Governor in Council may order the closing of a school or any grade thereof for a specified period.

Calculation
of grants.

(2) Where the Lieutenant-Governor in Council orders the closing of a school or any grade thereof for a specified period, such school or grade shall, for the purpose of calculating legislative grants and the cost of education of county and non-resident pupils, be deemed to have been open during such period with a perfect aggregate daily attendance. 1945 (2nd sess.), c. 8, s. 6.

Pupils
engaged in
war work,
calculation
of grants.

11. For the purpose of calculating legislative and county grants, the Minister may authorize the principal of a school to give credit for attendance at such school of pupils who have left school to enlist in His Majesty's navy, army or air force or to become employed in the production of food or other essential war materials, provided that the absence from school of such pupils is in accordance with the regulations. 1941, c. 52, s. 5, *part.*

Establish-
ment of
college of
education.

12.—(1) The Minister, with the approval of the Lieutenant-Governor in Council, may establish and conduct a college of education for the professional training and instruction of teachers and for that purpose may,

- (a) acquire by purchase or otherwise, or expropriate any lands, buildings or other real or personal property which he may deem necessary;
- (b) establish, erect and maintain all buildings, and provide such equipment, plant and appliances as he may deem expedient;
- (c) appoint officers, professors, instructors and teachers for the college;
- (d) provide for the affiliation of the college with any university or enter into arrangements for the use of any primary or secondary school for practice teaching purposes or for the services of teachers in any secondary school as lecturers or instructors in the college;
- (e) prescribe the course of training and study for students attending such college;
- (f) grant diplomas, certificates or other evidences of proficiency to the students, teachers and graduates of such college;

- (g) generally, with the approval of the Lieutenant-Governor in Council, do all such things and enter into all such agreements and arrangements as may be deemed advisable for establishing, maintaining, equipping, furnishing and conducting any such college.

(2) The expenses of establishing a college, the acquiring of property, plans, appliances and equipment therefor, the salaries of the officers, professors, instructors, teachers and servants of the college and the maintenance thereof shall be payable out of such moneys as may be appropriated by the Legislature for the purposes of the college of education. R.S.O. 1937, c. 356, s. 9.

13.—(1) There shall be payable out of the Consolidated Revenue Fund annually the sum of \$6,000, to be awarded by the Minister in scholarships to residents of Ontario for the purpose of enabling them to pursue courses of study in France.

Expenses of college.

Appropriation for scholarships for post-graduate courses in France.

(2) The number of such scholarships, the terms and conditions upon which they may be awarded, and the courses of study to be pursued, shall be prescribed by regulations to be made in the manner provided by this Act. R.S.O. 1937, c. 356, s. 10.

Regulations.

14. No school board or board of education shall enter into a contract for the transportation of pupils until it obtains the approval of the Minister. 1947, c. 29, s. 3.

Contracts for transportation of pupils.

15. The athletic camp at Longford, Lake Couchiching, known as the "Provincial Athletic Training Camp", may be continued under the administration and control of the Minister. 1948, c. 22, s. 2.

Provincial camp continued.

16.—(1) A teacher, trustee, inspector or other person officially connected with the Department, or with any normal, model, public or high school or collegiate institute, or other institution which is under the management or control of the Department, shall not sell or become or act as agent for any person to sell or to promote in any way the sale of any school library, prize or text-book, map, chart, school apparatus, furniture, stationery or other article for the use of any normal, model, public or high school, collegiate institute or other institution aforesaid or for the use of any pupil thereof, nor shall he receive directly or indirectly compensation or other remuneration or the equivalent for so doing.

No inspector, trustee, teacher, etc., to act as agent for the sale of books, maps, etc.

(2) For any contravention of subsection 1, a teacher shall be liable to a penalty of \$50; a trustee shall be liable to a

Penalty.

penalty of \$100; an inspector shall be liable to a penalty of \$500; and any other person so officially connected shall be liable to a penalty of \$100.

Penalty
against
business,
firm or
agent.

(3) Any person, firm or corporation and any agent of a person, firm or corporation who employs a teacher, trustee, inspector or any other person officially connected with the Department or with any normal, model, public or high school or collegiate institute, or other institution which is under the management or control of the Minister, to sell or become or act as agent for or to promote in any way the sale of any school library, prize or text-book, map, chart, school apparatus, furniture, stationery or other article for the use of any normal, model, public or high school, collegiate institute, or other institution aforesaid, or who directly or indirectly gives or pays to any such teacher, trustee, inspector or other person compensation or remuneration or the equivalent thereof for so doing shall for every such offence be liable to a penalty of \$500.

Gifts, etc.,
to be
prima facie
evidence.

(4) Any gift or payment made to a teacher, trustee, inspector or other person so officially connected by any person, firm or corporation interested either as principal or agent in any such sale shall be *prima facie* evidence of a violation of this section.

Recovery of
penalties.
Rev. Stat.,
c. 379.

(5) The penalties imposed by this Act shall be recoverable under *The Summary Convictions Act*.

Application
of penalties.

(6) The penalties recovered under this Act shall be applied to such purposes as the Minister may direct.

Consent of
Attorney-
General to
prosecution.

(7) No prosecution for any of the penalties mentioned in this section shall be instituted without the written consent of the Attorney-General or his deputy.

Sale in
ordinary
course of
business
excepted.

(8) This section shall not apply to sales made by a trustee who is a merchant or bookseller in the ordinary and regular course of his business as such and made at his shop or place of business. R.S.O. 1937, c. 356, s. 13.

CHAPTER 95

The Department of Labour Act

1. In this Act,

Interpre-
tation.

(a) "Board" means Industry and Labour Board;

(b) "Department" means Department of Labour;

(c) "Deputy Minister" means Deputy Minister of Labour;

(d) "Minister" means Minister of Labour. *New.*

2. The Department shall be presided over by the Minister. Minister to preside.
R.S.O. 1937, c. 69, s. 1.

3. The Lieutenant-Governor in Council may appoint a Deputy Minister and staff. Deputy Minister and such other officers, clerks and servants in the Department as may be deemed necessary or expedient.
R.S.O. 1937, c. 69, s. 2.

4. The Deputy Minister shall perform such duties as may Duties of Deputy Minister. be assigned to him by the Lieutenant-Governor in Council or by the Minister. R.S.O. 1937, c. 69, s. 3.

5. The Department shall administer:

Adminis-
tration of
certain Acts
assigned to
Department.(a) *The Apprenticeship Act*;(b) *The Building Trades Protection Act*;(c) *The Employment Agencies Act*;(d) *The Factory, Shop and Office Building Act*;(e) *The Industrial Standards Act*;(f) *The One Day's Rest in Seven Act*;(g) *The Operating Engineers Act*;(h) *The Steam Boilers Act*;

(i) Regulations respecting the protection of persons working in compressed air, tunnels, or open caissons,

Rev. Stat.,
cc. 19, 41,
114, 126,
179, 260,
265, 374.

and such other Acts or regulations as may from time to time be designated by the Lieutenant-Governor in Council. R.S.O. 1937, c. 69, s. 4.

Duties of
Department,

6. The Department shall,

statistics
and
information;

- (a) collect such statistical and other information respecting trades and industries in Ontario as may be deemed necessary or expedient from time to time;

distribution
of employ-
ment;

- (b) ascertain the localities in which mechanics, artisans or workmen in any particular trade or industry are required and wherever practicable assist in supplying the demand for such work or labour;

sanitary
and other
conditions;

- (c) ascertain and report upon sanitary and other conditions relating to the health, comfort and well-being of the industrial classes;

employment
bureaux;

- (d) establish and maintain in the various centres of population throughout Ontario employment offices and similar agencies for obtaining suitable employment for persons, both male and female, in any of the trades, occupations or professions, and for procuring workers for employment in any of the trades, occupations or professions, and subject to *The Employment Agencies Act*, to regulate all voluntary, private or municipal employment bureaux;

Rev. Stat.,
c. 114.

wages;

- (e) ascertain and report upon the rates of wages paid to employees in the various trades and industries carried on in Ontario;

new
industries
in Ontario;

- (f) inquire and report as to the establishment of new industries in Ontario in any case where by reason of the production of raw material for such industry in Ontario, or the immigration of persons skilled in the particular industry or other circumstances it appears that such industry can profitably be carried on;

reporting
upon laws
in other
parts of
Empire and
in foreign
countries;

- (g) inquire into, consider and report upon the operation of laws in force in other parts of the Empire and in foreign countries, having for their objects the protection, technical training and welfare of the industrial classes, and make such recommendations and suggestions thereon as may be deemed advisable;

changes in
the law.

- (h) consider and report upon any petition for or suggestion of a change in the law of Ontario relating to

labour and wages or any matter affecting the industrial classes, presented or made by any trades and labour council or other organization representing those classes or by any other person. R.S.O. 1937, c. 69, s. 5, cls. (a-h).

7.—(1) The Minister shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Department. Annual report.

(2) The Provincial Secretary shall submit the report to the Lieutenant-Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. 1949, c. 95, s. 5 (2). Tabling.

8.—(1) The Board shall consist of not more than three members appointed by the Lieutenant-Governor in Council, one of whom shall be designated as chairman, and all of whom shall be officers of the Department. R.S.O. 1937, c. 69, s. 6 (1); 1938, c. 9, s. 2 (1), *amended*. Industry and Labour Board.

(2) The Board shall be a body corporate and with the approval of the Lieutenant-Governor in Council may pass by-laws and regulations governing its proceedings. R.S.O. 1937, c. 69, s. 6 (2). By-laws of Board.

(3) The Board shall administer, enforce and carry out any Act in which the Board is designated for the purpose in such Act or which may be assigned to it by the Lieutenant-Governor in Council. R.S.O. 1937, c. 69, s. 6 (4). Powers of Board.

9.—(1) The Deputy Minister may require from employers, workmen and other persons such information concerning rates of wages, hours of work, regularity of employment and other matters as he may deem necessary for the proper carrying out of this Act or of any of the Acts or regulations administered by the Department. Powers of Deputy Minister as to obtaining information.

(2) For the purpose of procuring such information or for the purpose of assisting the Department in carrying out any of the provisions of section 6, the Minister may authorize the Board or any member or members of the Board to conduct a public inquiry, and the Board or member or members thereof acting under such authority shall, for the purpose of conducting such public inquiry, have all the powers, rights and privileges that may be conferred upon a commissioner appointed under *The Public Inquiries Act*. Public inquiries by board.

(3) Any officer or inspector of the Department acting under the written authority of the Deputy Minister, shall have Right of access.

Rev. Stat.,
c. 308.

access to all reasonable hours to any office, factory, shop, place of business or other premises for the purpose of carrying out this Act or any Act or regulations administered by the Department.

Refusing
information
or interfering
with officers.

(4) Every person who refuses to furnish any returns or information which may be lawfully required, or who hinders or obstructs any officer or inspector in the performance of his duties under this Act or any of the Acts or regulations administered by the Department shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$20.

Falsifying
records.

(5) Every person who falsifies his records or returns or supplies incomplete or untrue information shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$300. R.S.O. 1937, c. 69, s. 7.

Regulations
for
protection
of workmen.

10.—(1) The Minister, with the approval of the Lieutenant-Governor in Council, may make such regulations as may be deemed necessary for the safety and protection of persons engaged,

(a) on work in the construction of which men are employed in compressed air;

(b) in the construction of tunnels and open caisson work;

(c) in the construction of coffer dams and crib work in water or other places where pressure of sand, water or soil is likely to endanger human life. R.S.O. 1937, c. 69, s. 8 (1); 1938, c. 9, s. 3.

Other
regulations
not inter-
fered with.

(2) Such regulations shall be deemed to be in addition to and not in contradiction of or in substitution for regulations made under any other Act dealing with the safety of workmen and employees. R.S.O. 1937, c. 69, s. 8 (3).

Stopping
work when
conditions
unsafe.

11. Whenever any inspector appointed under this Act or under any of the Acts or regulations administered by the Department is of the opinion that any work or installation to which any such Act or regulations apply or any portion of such work or installation is being carried on or has been installed in such manner as to be dangerous to life or property, he may, by written order to the employer, person, firm or corporation responsible for such work or installation, or to the contractor for any part thereof, order the immediate cessation of the work or operation of the plant or equipment or any portion thereof, which he considers unsafe. R.S.O. 1937, c. 69, s. 9.

12. Any person, firm or corporation employing persons on any work or installation to which any of the Acts or regulations administered by the Department apply, who refuses or neglects to comply with any order, direction or recommendation lawfully given in connection with the safe conduct of such work or installation shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$300. R.S.O. 1937, c. 69, s. 10.

Penalty
for non-
compliance.

CHAPTER 96

The Department of Municipal Affairs Act

PART I

1. In this Act,Interpre-
tation.

- (a) "Board" means Ontario Municipal Board;
- (b) "Department" means Department of Municipal Affairs;
- (c) "Deputy Minister" means Deputy Minister of Municipal Affairs;
- (d) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or portions thereof;
- (e) "Minister" means Minister of Municipal Affairs;
- (f) "municipality" means the corporation of a county, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs in an unorganized township or unsurveyed territory;
- (g) "public utility" means any waterworks, gasworks, including works for the transmission, distribution and supply of natural gas, electrical power or energy works, or system for the generation, transmission or distribution of electric light, heat or power, any telephone system, any street or other railway system, any bus or other public transportation system or any other works or system for supplying the inhabitants generally with necessities or conveniences which are

vested in or owned, controlled or operated by a municipality or municipalities or by a local board. R.S.O. 1937, c. 59, s. 1; 1946, c. 20, s. 1; 1949, c. 25, s. 1.

2.—(1) There shall be a Department of Municipal Affairs, over which the Minister shall preside, and the Minister shall have power and authority to act for and on behalf of the Department. R.S.O. 1937, c. 59, s. 2 (1); 1942, c. 9, s. 2.

(2) A Deputy Minister of the Department shall be appointed by the Lieutenant-Governor in Council.

(3) The Lieutenant-Governor in Council may also appoint such officers, clerks and servants as from time to time may be deemed necessary for the proper conduct of the business of the Department. R.S.O. 1937, c. 59, s. 2 (2, 3).

3.—(1) The Department shall administer all Acts in respect to municipal institutions and affairs, including *The Ontario Municipal Board Act*.

(2) The Department shall administer such other Acts as may be provided herein and as may from time to time be designated by the Lieutenant-Governor in Council.

(3) The Department shall exercise general oversight over municipal institutions and their administration and such special oversight and powers in relation thereto as may be provided in or under the authority of this or any other general or special Act; provided that nothing herein shall be deemed to divest the Board of any jurisdiction or powers conferred on it by this or any other Act. R.S.O. 1937, c. 59, s. 3.

4. *The Ontario Housing Act, 1919, and The Municipal Housing Act, 1920, and amendments thereto, respectively, shall be administered by the Department, and for the purposes of the said Acts and the regulations made thereunder, the Deputy Minister shall hereafter be the director named and referred to in such acts.* R.S.O. 1937, c. 59, s. 4.

5. The Department shall submit to the Lieutenant-Governor in Council an annual report upon the affairs and work of the Department, and such report shall be laid before the Assembly within 21 days after the commencement of the next session. R.S.O. 1937, c. 59, s. 5.

6. The Deputy Minister and such of the officers of the Department who may be authorized thereto by the Lieutenant-Governor in Council shall for any of the purposes of the

Department or of any Act which it administers, have and may exercise the same powers as a commissioner under *The Public Inquiries Act*. R.S.O. 1937, c. 59, s. 6. Rev. Stat.,
c. 308.

PART II

7. The jurisdiction formerly exercised by the Bureau of Municipal Affairs and transferred by Part IV of *The Ontario Municipal Board Act, 1932*, to the Board, is hereby transferred to the Department, which shall exercise jurisdiction over all the matters formerly assigned to the said bureau. R.S.O. 1937, c. 59, s. 7 (1). Transfer of
Bureau of
Municipal
Affairs.
1932,
c. 27.

8. The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) governing the exercise by the Department of the powers conferred on the Department by clause *j* of section 9;
- (b) prescribing the fees payable for licences under clause *j* of section 9. 1941, c. 18, s. 1.

9. The Department may,

Powers of
Department
re,

- (a) prescribe and regulate the system of estimates, book-keeping and accounting to be adopted by municipalities, and the form of and the manner in which all estimates, books of account, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues and expenditures of municipalities shall be kept, and the manner in which all funds and moneys thereof shall be accounted for; municipal
accounting;
- (b) prescribe the forms, returns, statements and information to be made and furnished by municipalities to the Department, annually, periodically or otherwise, and the times when and by whom they shall be made; municipal
returns;
- (c) prescribe and regulate the system of auditing of the accounts, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues, expenditures, funds and moneys of municipalities and the reports, returns, statements and information to be made and furnished by municipal auditors and otherwise with respect to the performance of their duties; municipal
audit;

compiling
statistics,
etc.;

- (d) collect, compile, analyze and record such statistical and other information relating to the financial and other affairs of municipalities as may be useful;

publishing
reports, etc.;

- (e) prepare and publish statistics, reports, records, bulletins, pamphlets, circulars and other means of disseminating information and advice in relation to municipal affairs as may be useful;

report on
municipal
government,
etc.;

- (f) study, report and advise upon the system of municipal institutions and the government and administration of municipal affairs;

incidental
powers;

- (g) perform and do all things necessary or incidental to any of the aforesaid purposes;

advisory
powers;

- (h) effect improvement generally in the conduct and administration of municipal affairs and, among other things, consult with and assist by advice municipalities, develop proper methods of municipal administration, financing, accounting and audit, collaborate with municipal associations and other bodies and collect, compile and disseminate municipal statistics and information;

power of
investiga-
tion;

- (i) inquire at any time into any or all of the affairs, financial and otherwise, of a municipality or local board and hold such hearings and make such investigations in respect thereof as may appear necessary or expedient to be made in the interest of such municipality, its ratepayers, inhabitants and creditors, and particularly to make and hold such inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of default by any municipality in meeting its obligations;

licensing
municipal
auditors.

- (j) grant upon payment of the prescribed fee a licence to every person whom the Department deems qualified to perform the duties of a municipal auditor, and refuse, suspend or revoke any such licence. R.S.O. 1937, c. 59, s. 8; 1941, c. 18, s. 2.

Variations
in systems
and forms.

10. The Department may, with respect to any of the matters mentioned in clauses *a*, *b* and *c* of section 9, prescribe different systems, methods and forms for the several classes of municipalities or for any municipality. R.S.O. 1937, c. 59, s. 9.

Powers re
assessment
rolls, tax
collection
procedures,
etc.

11. The Department may in respect of any municipality or class thereof, notwithstanding any other Act,

- (a) prescribe the form of assessment returns, assessment rolls or collector's rolls and the particulars to be set down therein, or combine or vary the same from time to time;
- (b) order that the tax arrears procedures of this Act shall apply and that the tax sale procedures of *The Assessment Act* shall not apply and in such case the use or disposition of land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition shall be subject to the approval of the Department. 1946, c. 20, s. 2; 1949, c. 25, s. 2.

12. Every municipality and every member of the council or a local board thereof and every officer thereof shall comply with any system, methods or forms prescribed under this Part to be adopted, kept or made by such municipality, local board or by the class of municipalities or local board of which such municipality or local board is one. R.S.O. 1937, c. 59, s. 10.

Duty of members of council, local boards and their officers.

13. A municipality which has adopted a system of estimates, bookkeeping, accounting or auditing which the Department is satisfied to approve may continue such system until otherwise directed by the Department and until such time it shall not be necessary for the municipality to comply with any system prescribed under this part. R.S.O. 1937, c. 59, s. 11.

Adoption of other satisfactory system of accounting, auditing, etc.

14.—(1) All returns required by any Act to be made to the Secretary of the Bureau of Industries or to the Bureau of Municipal Affairs shall be made to the Department.

All returns to be made to the Department.

(2) Where in any Act reference is made to the Director of the Bureau of Municipal Affairs such reference shall be deemed to be made to the Department. R.S.O. 1937, c. 59, s. 12.

Change of references.

15.—(1) The Department, upon its own initiative or when ever requested by any municipality expressed by resolution of its council, or on a petition in writing signed by not less than 50 ratepayers assessed as owners and resident in a municipality, may direct a provincial municipal audit of the financial affairs of the municipality.

Provincial municipal audit.

(2) Any direction given by the Department may extend to an audit of all the financial affairs of a municipality or may be limited to the financial affairs of any local board thereof, or

Extent of audit.

to any specified phase of such financial affairs or to any specified books, accounts, registers, records, vouchers, receipts, funds, money or financial transactions, kept by or under the charge of any officer of the municipality designated by the Department. R.S.O. 1937, c. 59, s. 13.

Appoint-
ment of
auditor.

16. An audit directed to be made under this Part may be made by any officer of the Department, or by a competent auditor appointed by the Minister, and the officer and person so appointed shall for the purposes of such audit have all the powers mentioned in section 17. R.S.O. 1937, c. 59, s. 14.

Powers of
auditor.

17. For the purposes of any audit the officer of the Department or other person appointed to make the audit may require the production of all or any books, records and documents which may in any way relate to the affairs of the municipality the subject of the audit, and inspect, examine and audit and copy the same, and may require any officer of the municipality and any other person to appear before him and give evidence on oath touching any of such affairs and for such purpose shall have the same powers as a commissioner under *The Public Inquiries Act*. R.S.O. 1937, c. 59, s. 15.

Rev. Stat.,
c. 308.

Report on
audit.

18. Upon completion of an audit under this Part the auditor shall report thereon in writing to the Deputy Minister, who shall forthwith transmit a copy of the report to the municipality. R.S.O. 1937, c. 59, s. 16.

Powers of
Department
as a result of
an audit.

19. The Department, as a result of any audit of the affairs of a municipality made under this Part, may make such orders as it may see fit requiring the municipality to carry out, put into effect, observe, perform or enforce such matters or things as the audit may have disclosed as being necessary or desirable in the interests of the municipality or with respect to the due accounting for, collection or payment of any of its assets, liabilities, revenues, expenditures, funds or money or otherwise in any respect as the order of the Department may provide. R.S.O. 1937, c. 59, s. 17.

Fees for
audit.

20. The Department may fix the fees and allowances for expenses payable with respect to any audit of the affairs of a municipality under this Part, and the amount so fixed shall forthwith be paid by the municipality. R.S.O. 1937, c. 59, s. 18.

Exception
as to
municipal
hydro-
electric
commissions.

21. Nothing in this Part shall give to the Department any jurisdiction with respect to any of the affairs of a municipal utility commission, the exclusive jurisdiction over which is by statute conferred upon The Hydro-Electric Power Commission of Ontario. R.S.O. 1937, c. 59, s. 19.

22. Nothing in this Part shall affect or impair any security given by any officer of a municipality for the due and faithful performance of the duties of his office, nor relieve his sureties from liability in case of his default therein, nor shall anything in this Part relieve any municipality from its duty to appoint competent auditors. R.S.O. 1937, c. 59, s. 20.

Obligations
of officers'
sureties not
affected, etc.

23. Where a municipality fails, neglects or refuses to make or provide to the Department any form or return, statement or information prescribed or ordered made under this Part, the Deputy Minister may authorize some person to make and furnish the same at the expense of the municipality. R.S.O. 1937, c. 59, s. 21.

Power to
obtain
returns on
failure of
municipality
to make
them.

24. Any municipality, member of council or of a local board or an officer thereof or any other person guilty of any wilful breach of any of the provisions of this Part or of any order of the Department made thereunder shall be guilty of an offence and on summary conviction, in addition to any other penalty provided by law, shall be liable to a penalty of not less than \$20 and not more than \$200 and, if a member of a council or a local board shall, upon conviction, be disqualified from holding any municipal office for a period of two years. R.S.O. 1937, c. 59, s. 22.

Penalty.

PART III

SPECIAL JURISDICTION OVER DEFAULTING MUNICIPALITIES

25. In this Part,

Interpre-
tation.

- (a) "improved land" means any parcel of land separately assessed which has a building thereon, and includes any land in actual use for agricultural purposes, although there is no building thereon;
- (b) "registrar" means the registrar of a registry office;
- (c) "registry office" means the registry office of the registry division for the county or district in which a municipality subject to this Part is situate; R.S.O. 1937, c. 59, s. 23, cls. (a-c).
- (d) "sheriff's office" means the office of the sheriff for the county or district in which a municipality subject to this Part is situate; 1939, c. 47, s. 6 (1).
- (e) "vacant land" means any parcel of land separately assessed, which has no building thereon, but does not include any improved land. R.S.O. 1937, c. 59, s. 23, cl. (d).

Special
municipal
jurisdiction
of Board,

26.—(1) The Board shall have and may exercise the special jurisdiction and powers conferred by this Part, whenever, upon request of the Department or of a municipality expressed by resolution of its council, or upon request of the creditors of a municipality having claims representing not less than 20 per cent of its indebtedness, including debenture debt, it is satisfied upon inquiry that the municipality,

default in
meeting
debenture
debt;

(a) has failed to meet and pay any of its debentures or interest thereon as the same became due and after payment thereof has been duly demanded; or

default in
meeting
other in-
debtedness;

(b) has failed to meet and pay any of its other debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the municipality; or

financial
difficulties.

(c) has or may become financially involved or embarrassed so that default or unusual difficulty in meeting debts or obligations or in providing adequate funds to meet current expenditures may ensue, or has failed to levy the necessary rates to meet current expenditures.

Partial or
full inquiry.

(2) In the course of an inquiry the Board may investigate any or all of the affairs of a municipality.

Separate
school
board.

(3) The Board may exercise the said powers with respect to any separate school board of any municipality which has not been made subject to this Part, upon request expressed by resolution of the school board. R.S.O. 1937, c. 59, s. 24.

Power of
Board to vest
control over
municipal
adminis-
tration in
Department.

27.—(1) If upon inquiry the Board is of opinion that the circumstances so warrant or appear to render desirable, it may make such order as it may deem proper or necessary to vest in the Department control and charge over the administration of all the affairs of the municipality as set forth in the order and to declare that thereafter and until the Board shall otherwise determine and order such municipality shall be subject to this Part.

Deputy
Minister
not to sit as
member
of Board.

(2) During such time as the Deputy Minister is a member of the Board he shall not sit as a member thereof with respect to any application or matter before the Board under this Part. R.S.O. 1937, c. 59, s. 25.

Powers of
Department.

28.—(1) Except as otherwise provided in this Part, the Department shall have and may exercise the powers conferred on it by this Part and such additional powers as by any

order of the Board or by the terms of any agreement entered into under the authority of this Part may be conferred on it, and may do all things necessary or incidental to the exercise of any such powers.

(2) The jurisdiction and powers to be exercised under this Part by the Department shall extend to and include not only control over all the affairs of the corporation of the municipality, but also over all the affairs of every local board of the municipality, unless an order made by the Board otherwise expressly declares and directs. R.S.O. 1937, c. 59, s. 26.

Declaration as to jurisdiction of Department.

29. The council or a local board or any creditor dissatisfied with any order of the Department may within five days after such order is transmitted to the head of the municipality, or its clerk or treasurer or, in the case of a local board, to its chairman or secretary, appeal therefrom to the Minister, who may himself dispose finally of the appeal or direct the same to be disposed of by the Board. R.S.O. 1937, c. 59, s. 27.

Appeals from orders of Department.

30. Where a municipality has become subject to this Part, notice thereof shall be given in *The Ontario Gazette* and in such one or more newspapers, published in or near the municipality and elsewhere and to such persons and in such form as the Board may direct. R.S.O. 1937, c. 59, s. 28.

Notice to be given of subsection of municipality to this Part.

31.—(1) When notice has been published in *The Ontario Gazette* that a municipality is subject to this Part, such publication shall operate as a stay of all actions or proceedings pending against the municipality and as a stay of execution as the case may be, and thereafter no action or other proceeding against the municipality shall be commenced or continued nor shall a levy be made under a writ of execution against the municipality, without leave of the Board.

Stay of actions against municipality without leave of Board.

(2) Where the commencement or continuance of any action or proceeding or the making of any levy under a writ of execution is prevented or stayed under this section, the time during which such prevention or stay continues shall not be computed for the purposes of any statute or law of limitations until leave of the Board to commence or continue such action or proceeding or make such levy is obtained but the person having the right of action or to take any proceeding or to make a levy under a writ of execution shall upon the removal of the prevention or stay, have the same length of time within which to take action or proceed or make a levy under a writ of execution, as the case may be, as he had when such prevention or stay came into operation; provided that this subsection shall not apply unless application is made to the

Suspension of operation of statutes of limitation.

Board for approval of the continuance or commencement of any such suit, action or proceeding, within the time so limited as aforesaid by statute or law of limitations and such approval is refused. R.S.O. 1937, c. 59, s. 29.

Where order made under section 32.

(3) Subsection 1 shall not apply to a municipality subject to this Part after the Board has made an order under clause *b* or *j* of subsection 1 of section 34 with respect to the municipality. 1950, c. 14, s. 1.

Existing liens not taken away.

32. Nothing in this Part shall take away any lien, hypothec or other charge, if any, in existence and subsisting at the time this Part comes into force with respect to any municipality upon or against any revenue or other asset of the municipality and the same shall continue to exist until it is satisfied and discharged. R.S.O. 1937, c. 59, s. 30.

Control exercisable by Department,

33. The Department shall with respect to the municipality and every local board thereof have control and charge over the exercise by any of them of any of their powers and over the performance by any of them of any of their duties and obligations with respect to,

municipal officers;

(a) the appointment and dismissal of its officers, employees and servants, and their powers, duties, salaries and remuneration;

revenues and expenditures;

(b) the collection, receipt, application and payment of its revenues and expenditures;

sinking funds;

(c) the keeping, investment, use, application, payment and disposition of all sinking funds and of the moneys belonging thereto and of all rates levied and moneys collected for the purposes of any such sinking fund;

accounting and audit;

(d) the system of accounting and audit, and the dealing with its assets, liabilities, revenues and expenditures;

assessment;

(e) the making of and the manner and times for making the assessment and assessment rolls and of appeals therefrom;

estimates;

(f) the yearly or other estimates and the form, preparation and completion thereof, and the times when the same shall be made;

what estimates shall include;

(g) the amounts to be provided for and included in the yearly or other estimates, whether the same are to be provided by taxation or otherwise;

- (h) the imposition, rating, levying and collection of all ^{rates and collection thereof;} rates, assessments and taxation, the mode and times for collecting the same and the allowance of discounts or imposition of penalties thereon, and for the making and return of the collector's roll;
- (i) borrowing of moneys for the current expenditures of ^{borrowings;} the corporation until the taxes are collected;
- (j) subject to *The Power Commission Act*, the rates, ^{utility rates;} rents and charges imposed, levied or collectable for ^{Rev. Stat., c. 281.} supply or service of any public utility;
- (k) imposition, charging and collection of all licence, ^{licence and permit fees.} permit or other fees, charges and expenses;
- (l) the sale or other disposition of any of its assets; and ^{sale of assets;}
- (m) without being limited by the foregoing, generally ^{general.} with respect to any other matter in any way affecting or pertaining to its affairs and their administration.
R.S.O. 1937, c. 59, s. 31.

34.—(1) Where a municipality has become subject to this ^{Powers of Board with respect to debt.} Part the Board, with respect to the debenture debt and debentures of the municipality and interest thereon and with respect to any other indebtedness thereof, shall have power to authorize or direct,

- (a) consolidation of the whole or any portion thereof;
- (b) issue, on such terms and conditions, in such manner and at such times as the Board may approve, of debentures, certificates or other evidences of indebtedness, in substitution and exchange for any outstanding debentures or in payment and satisfaction of the whole or any portion of such other indebtedness, and compulsory acceptance of such debentures, certificates or other evidences of indebtedness in payment and satisfaction of such outstanding debentures or other indebtedness;
- (c) issue of new debentures to cover any such consolidation;
- (d) retirement and cancellation of the whole or any portion of the existing debenture debt and outstanding debentures, upon the issue of new debentures to cover the same or in exchange therefor;

- (e) terms, conditions, places and times for exchange of new debentures for outstanding debentures;
- (f) postponement of or variation in the terms, times and places for payment of the whole or any portion of the debenture debt and outstanding debentures and other indebtedness and interest thereon and variation in the rates of such interest;
- (g) cancellation, increase, decrease or other variation in the levy and collection of any assessment, rate or taxation, rent or charge imposed to meet, pay and discharge any debenture debt, debentures, or other indebtedness, and interest thereon, and to vary the basis, terms and times of payment thereof;
- (h) creation and setting aside of sinking funds and special reserves out of any portion of the revenues of the municipality for meeting, paying and discharging its debenture debt, debentures, or other indebtedness or any portion thereof or interest thereon;
- (i) custody, management, investment and application of sinking funds, reserves and surpluses;
- (j) ratification and confirmation of any agreement, arrangement or compromise entered into with its creditors or any of them respecting its debenture debt, debentures or other indebtedness or any portion thereof and interest thereon;
- (k) any variation, amendment or cancellation of any order made by it under this section or of the terms of any agreement, arrangement or compromise ratified and confirmed by it under this section;
- (l) an interim plan, pending a final order or plan with respect thereto, which may cancel all or any portion of interest in arrear and may alter, modify or compromise the rights of debenture holders or other creditors during any period of time between the date of default and the end of the fifth year following the date of the order of the Board.

Limitation.

(2) The Board shall not make any order under clause 1 of subsection 1 unless creditors representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness

in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have filed in writing with the Board their approval of the making of such order. R.S.O. 1937, c. 59, s. 32; 1940, c. 28, s. 21 (2-4); 1946, c. 20, s. 3 (1).

(3) Where a municipality has become subject to this Part, the Board, with respect to the debenture debt and debentures of such municipality and interest thereon and with respect to any other indebtedness thereof, may,

Powers of
Board with
respect to
debt.

- (a) authorize or direct any municipality, whether or not it has become subject to this Part, to continue to guarantee any such debentures notwithstanding any postponement or variation in the terms, provisions and time of payment thereof, and to guarantee any new debentures issued in substitution and exchange therefor;
- (b) authorize or direct any municipality, whether or not it has become subject to this Part, to assume and pay by the issue of debentures or otherwise a share of any liability in respect of which such municipality may be jointly or jointly and severally liable with any other municipality, which share may be either in full satisfaction of such liability of such municipality or on account thereof, and, if on account, the Board may order that provision be made for further payment in respect thereof;
- (c) summon and enforce the attendance of such persons as the Board thinks fit to summon,

and the Board shall direct that reasonable notice be given of any application under this subsection to every person whose interests it deems to be directly affected thereby and every order made under this subsection shall be binding upon every such person. 1938, c. 10, s. 2; 1946, c. 20, s. 3 (2).

35. The Board upon the application of the separate school board of a municipality which has been made subject to this Part or of the separate school board of any other municipality where such board has been made subject to this Part, although the municipality itself has not been made so subject, shall have power to make orders under and in accordance with the provisions of section 34 with respect to the debenture debt, debentures and other indebtedness of the separate school board and interest thereon. R.S.O. 1937, c. 59, s. 33.

Separate
school
board.

Publication
of notice of
intention to
exercise
powers.

36.—(1) Where the Board upon application to it by the Department or the council or a separate school board or any of the creditors of the municipality intends to exercise any of the powers conferred on the Board under subsection 1 of section 34 or section 35, it shall, before so doing, give or direct that there be given notice of such intention in *The Ontario Gazette* and by such other publication and to such persons and in such manner as to the Board may seem proper, and such notice shall state the time and place when the matter is to be dealt with by the Board, which time shall be not less than two months after the notice is published in *The Ontario Gazette*. 1938, c. 10, s. 3 (1).

Subsection 1
not to apply
to incidental
matters.

(2) The provisions of subsection 1 shall not apply with respect to any matter which is merely incidental to the exercise of any of said powers. R.S.O. 1937, c. 59, s. 34 (2).

Objection
to be filed
with Board.

(3) The Board shall not make any order under subsection 1 of section 34 if objection in writing to the making of such order is filed with the Board by creditors representing not less than one-third in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness, but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable. R.S.O. 1937, c. 59, s. 34 (3); 1938, c. 10, s. 3 (2).

Approval by
creditors.

(4) If creditors representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have filed in writing with the Board their approval of the making of any order of the Board under subsection 1 of section 34, it shall not be necessary that two months shall elapse as required under subsection 1. R.S.O. 1937, c. 59, s. 34 (4); 1938, c. 10, s. 3 (3).

When matter
to be varied.

(5) When a matter is being dealt with by the Board under this section and the Board intends to vary the terms thereof, it shall, before so doing, give or direct that there be given notice of such intention to such persons and in such manner as to the Board may seem proper and such notice shall state the time and place when such variation is to be dealt with by the Board, which time shall not be less than two weeks after the notice. 1946, c. 20, s. 4.

Debenture
debt not to
form part of
debt after
order of
Board.

37. After an order of the Board has been made under section 34 no portion of the debenture debt of the corporation represented by debentures ordered to be cancelled, retired

or exchanged shall form part of its debt within the meaning of any Act limiting its borrowing powers. R.S.O. 1937, c. 59, s. 35.

38. The municipality may, with the approval of the Department, enter into agreements with any person with whom the municipality has previously entered into any agreement, contract or obligation which or some term, provision or obligation of which remains in whole or in part or in any manner to be observed, performed or carried out by the municipality, for the variation, amendment or cancellation of any such subsisting agreement, contract or obligation. R.S.O. 1937, c. 59, s. 36.

39.—(1) The municipality shall not, under any special or general Act, exercise or be required to exercise any of its powers if such exercise will or may require money to be provided by the issue of debentures of the corporation, without the approval of the Department first being obtained.

(2) The municipality may, with the approval of the Department, pass by-laws providing for the issue of debentures and to authorize the hypothecation or sale thereof, but no such by-law shall have any force and effect until approved by the Department. R.S.O. 1937, c. 59, s. 37.

40. It shall not be necessary that the assent of the electors of the municipality or of those thereof qualified to vote on money by-laws be obtained with respect to any by-law of the municipality or the issue thereunder of any debentures if such by-law is approved by the Department. R.S.O. 1937, c. 59, s. 38.

41. The Department shall have full charge and control over all moneys belonging to the municipality and received by any person for or on its behalf and such moneys shall be deposited in a chartered bank, the Province of Ontario Savings Office or a loan or trust company registered under *The Loan and Trust Corporations Act* to be designated by the municipality and when so deposited shall only be applied, used, transferred and withdrawn for such purpose, in such manner and at such time or times as the Department may approve and direct, and all cheques drawn and issued by the municipality shall be signed and countersigned by such persons and in such manner as the Department may authorize and no moneys belonging to or revenues of the municipality may be appropriated, applied, paid, used, transferred or withdrawn by any person except with the approval of or otherwise than directed by the Department. R.S.O. 1937, c. 59, s. 39; 1946, c. 20, s. 5.

Approval of
Department
necessary
to levy rate.

42.—(1) Notwithstanding any general or special Act or any by-law of the municipality, only such rates, assessments or amounts shall be imposed, rated, levied or directed so to be upon the rateable property within the municipality or upon any part thereof as the Department approves or directs. R.S.O. 1937, c. 59, s. 40 (1); 1941, c. 18, s. 3.

County rates
to be
provided as
Department
may direct.

(2) Nothing in this Part shall relieve a municipality from the obligation to ultimately provide and pay to the county of which it forms or has formed part, the amounts of all county rates heretofore or hereafter directed to be levied by the county in such municipality with interest thereon at such rate as the county may have been obliged to pay upon any money borrowed by it upon debentures or otherwise until payment is made, and the payment of the said amounts with interest shall be made as and when the Department may direct.

Settlement
of county
rates.

(3) The council of a county by a vote of two-thirds of all the members thereof may accept in full settlement and payment of the county rates owing by any municipality subject to this Part less than the whole amount thereof. R.S.O. 1937, c. 59, s. 40 (2, 3).

Court of
revision.

Rev. Stat.,
c. 24.

43. Notwithstanding anything in *The Assessment Act*, the court of revision for the municipality shall consist of three members to be appointed by the council with the approval of the Department and the members need not necessarily be members of the council. R.S.O. 1937, c. 59, s. 41.

Return of
collector's
roll.

44. The collector shall return his roll to the treasurer on or before such day as the Department may direct. R.S.O. 1937, c. 59, s. 42.

Vesting of
vacant lands
in arrear
for taxes.

45.—(1) Where any part of the taxes on any vacant land within the municipality remains unpaid on the 31st day of December in the year next following that in which the taxes were levied, such vacant land shall be vested in and become the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to subsection 8.

Vesting of
improved
lands in
arrear for
taxes.

(2) Where any part of the taxes on improved land within the municipality remains unpaid on the 1st day of January in the third year following that in which the taxes were levied, such improved land shall be vested in and become the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption

hereinafter provided and to subsection 8. R.S.O. 1937, c. 59, s. 43 (1, 2).

(3) The treasurer, with respect to vacant land upon which any part of the taxes remains unpaid after the time mentioned in subsection 1 and with respect to improved land upon which any part of the taxes remains unpaid after the time mentioned in subsection 2, may register in the registry office a certificate to be known as a tax arrears certificate (Form 1), setting forth therein a description of the vacant land or improved land, as the case may be, and the amount of all unpaid taxes, with the amount of all penalties, interest and costs added thereto, and thereupon the land described in the certificate shall vest in and become the property of the municipality, its successors and assigns, in fee simple, clear of and free from all other estate, right, title or interest, subject only to the right of redemption hereinafter provided and to subsections 8, 10 and 11. R.S.O. 1937, c. 59, s. 43 (3); 1941, c. 18, s. 4; 1950, c. 14, s. 2 (1). Registration of tax arrears certificate.

(4) Immediately upon registration of a tax arrears certificate, the treasurer shall cause to be sent by registered mail to the last known address of the assessed owner of the land therein described and to all persons appearing by the records of the registry office and the sheriff's office to have an interest therein a written notice (Form 2) of the registration of such certificate and of the last day for redemption of the land. R.S.O. 1937, c. 59, s. 43 (4); 1939, c. 47, s. 6 (2). Notice of registration of certificate.

(5) The treasurer, forthwith after he has sent the notice as required by subsection 4, shall make and register in the registry office a statutory declaration describing the land to which it relates and setting forth the names and addresses of all persons to whom he has sent the notice and the date of sending the same to each person, and a copy of the notice shall be attached to the declaration as an exhibit. Registration of declaration as to sending of notices.

(6) The registrar shall be paid a fee of \$1 for registration of the statutory declaration. 1949, c. 25, s. 3. Declaration, fee for.

(7) The statutory declaration shall for the purposes of registration be deemed to be an instrument which within the meaning of *The Registry Act* may be registered, and it shall not be necessary for its registration that the declaration be accompanied by any proof of execution other than that attested in the declaration. 1950, c. 14, s. 2 (2). Declaration deemed an instrument. Rev. Stat., c. 336.

(8) Where the Crown, whether as represented by the Government of Canada or the Government of Ontario, has Interest of Crown not affected.

any interest in any land in respect of which taxes are in arrear, the interest only of the persons other than the Crown therein shall be vested in the municipality by the registration of a tax arrears certificate, and where such interest is that of a lessee, licensee or locatee, the vesting shall be valid without requiring the consent of the Minister of Lands and Forests.

Department
to approve
registration.

(9) The treasurer shall not register or cause to be registered any such certificates until authorized so to do by the Department, and any such authority may be general or special in its terms and shall not be required to be registered or referred to in any certificate which is registered. R.S.O. 1937, c. 59, s. 43 (5, 6).

Easements.

(10) Where a tax arrears certificate is registered with respect to a dominant tenement, the easements appurtenant thereto shall be vested in and become the property of the municipality, and where a tax arrears certificate is registered with respect to a servient tenement, the registration shall not affect any easement to which it is subject.

Restrictive
covenant.

(11) A restrictive covenant running with the land shall be deemed to be an easement within the meaning of subsection 10. 1938, c. 10, s. 4 (1).

Repairs,
etc.

46. Where land is vested in a municipality under section 45, any expenditure necessary to keep the land in a proper state of repair or to insure the same may be made by the treasurer and the amount thereof with interest as provided in section 142 of *The Assessment Act* may be added to the amount required to redeem the land, provided that the treasurer has sent by registered mail at least one month before making the expenditure a notice containing particulars of the proposed expenditure and an estimate of the cost thereof to the last known address of the assessed owner of the land and to all persons appearing by the records of the registry or land titles office and the sheriff's office to have an interest therein. 1944, c. 15, s. 1.

Rev. Stat.,
c. 24.

Right of
redemption.

47.—(1) The owner of or any person appearing by the records of the registry office or the sheriff's office to have an interest in any vacant land or improved land in respect of which a tax arrears certificate has been registered may redeem the land at any time within one year after the date of registration of the certificate by paying to the municipality the amount set forth in such certificate in respect of the land to be redeemed with interest thereon to the day of redemption, together with the amount of all expenses incurred by the municipality and the treasurer in registering the certificates

and for searches and postage and \$1 for each certificate and for each notice sent under subsection 4 of section 45, and also by paying to the municipality all taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former owner and had been liable for ordinary taxation and if the value thereof is not shown upon the assessment roll, such taxes shall be computed at the rate fixed by by-law for each year for which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed and upon the frontage as shown upon the list of properties and the frontages thereof as settled by the court of revision for such local improvement, and a certificate of the treasurer as to the total amount payable in order to redeem the land shall be final and conclusive. 1946, c. 20, s. 6.

(2) Where land is redeemed under this section, the treasurer shall forthwith register in the registry office a certificate to be known as a redemption certificate (Form 3), setting forth therein a description of the land redeemed, and a redemption certificate shall, when registered, be a valid and effectual cancellation of the tax arrears certificate registered with respect to the land and, subject to subsection 3, the land shall thereupon vest in and become the property of the persons who would be entitled thereto if the tax arrears certificate had not been registered, according to their respective rights and interests. 1941, c. 18, s. 5.

(3) If land is redeemed by any person entitled to redeem the same other than the owner such person shall have a lien upon the owner's interest therein for the amount paid to redeem the land. R.S.O. 1937, c. 59, s. 44 (3).

48.—(1) Every certificate registered under sections 45, 47 and 50 shall be entered by the registrar in the registry book in its proper order and in the proper abstract index provided under *The Registry Act*. R.S.O. 1937, c. 59, s. 45 (1); 1939, c. 47, s. 6 (4).

(2) The registrar shall be entitled to the following fees for registration of a certificate under section 45, 47 or 50, and for searches made for the corporation for the purposes mentioned in section 45 and no others:

- (a) for registering a tax arrears certificate of vacant land, \$2, and 10 cents additional for every lot in excess of the first lot embraced in such certificate;

- (b) for registering a tax arrears certificate of improved land, \$2;
- (c) for registering a redemption or vacating certificate, 50 cents, and if the certificate embraces more than one parcel of land, for each additional parcel over one, five cents;
- (d) for each search made for the corporation for the purposes mentioned in section 45, five cents for each lot searched, but in no case to be more than \$5 for a search in respect of the lands described in any one certificate; R.S.O. 1937, c. 59, s. 45 (2).
- (e) for furnishing to the corporation for the purposes mentioned in section 45 a list in writing of the names and, if recorded, the addresses of all persons appearing by the records of the registry office to have an interest in the land described in a tax arrears certificate, 50 cents for each lot embraced in the certificate. 1950, c. 14, s. 3 (1).

Certificate
of sheriff.

(3) Upon the written request of the treasurer of a municipality for the purposes mentioned in section 45, the sheriff shall, in respect of the land described and the persons named in the request, furnish to the treasurer a certificate showing the names and addresses of all persons, if any, appearing by the records of his office to have an interest in such land, and for the certificate the sheriff shall be entitled to a fee of 75 cents for each lot embraced in the request. 1950, c. 14, s. 3 (2).

Land
transfer tax
not payable.
Rev. Stat.,
c. 198.

(4) No tax shall be payable under *The Land Transfer Tax Act* on registration of any tax arrears or redemption certificate or vacating certificate.

What lands
certificate
may
embrace.

(5) A tax arrears certificate of improved land shall not embrace more than one such property or any vacant land which is a separate parcel, and a tax arrears certificate of vacant land shall not embrace lots according to more than one registered plan or any improved land. R.S.O. 1937, c. 59, s. 45 (3, 4).

Where lands
in land
titles office.

49. Where land to which section 45 applies is registered in a land titles office, the certificate and declarations which may be registered under any provision of this Part shall be registered in the proper land titles office, and all the provisions of this Part in relation to such certificates and declarations and their registration, and as to fees payable for registrations, searches, lists and certificates shall *mutatis mutandis* apply to lands entered in a land titles office, and *The Land Titles Act* shall be deemed to permit of such registrations. 1950, c. 14, s. 4.

Rev. Stat.,
c. 197.

Vacating
certificates.
1932, c. 27;
1935, c. 16.

50.—(1) Where under this Part, Part VI of *The Ontario Municipal Board Act, 1932* or Part III of *The Department of Municipal Affairs Act, 1935* a tax arrears certificate has

been registered with respect to any land and it is subsequently ascertained that the same was registered by mistake or that lands have erroneously been included therein, or where an agreement for composition and payment of the arrears of taxes for which the certificate was registered has been entered into under section 54, the Department may direct the treasurer of the corporation to register a certificate to be known as a vacating certificate (Form 4), setting forth therein a description of the land wherein the title of the corporation is to be vacated, and such vacating certificate shall, when registered, be as valid and effective in law as a conveyance of the land described therein to the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, of the original estate of such registered owner; provided however that the registration of any vacating certificate shall not in any way cancel or affect taxes or arrears of taxes, if any, which may be due upon the land described therein. R.S.O. 1937, c. 59, s. 47 (2); 1938, c. 10, s. 5.

(2) The Department may require the council of a municipality subject to this Part to make application to the judge of the county or district court for the purposes mentioned in section 90 of *The Registry Act*. Cancellation of plans.
Rev. Stat.,
c. 336.

(3) This section shall apply to all lands acquired by the corporation of the city of Windsor under section 3 of *The City of Windsor Act, 1932*. R.S.O. 1937, c. 59, s. 47 (3, 4). Application to City of Windsor.
1932, c. 95.

51. Notwithstanding the provisions of this or any other Act, where land in respect of which a tax arrears certificate has been registered has become vested in the municipality and the period for redemption has expired and where the land has not been sold or conveyed and has not been declared by by-law to be required for the purposes of the municipality, any person to whom notice was sent under subsection 4 of section 45 shall at any time, with the approval of the Department, be entitled to a conveyance of the land upon payment of the full amount that would have been payable in respect of taxes, interest and penalties had the land not become vested in the municipality, together with the amount with interest thereon of any expenditure incurred for repairs and insurance and together with the costs in connection with such vesting and of the conveyance. 1946, c. 20, s. 7, *part*. Conveyance to former owner, etc.

52. The proceeds derived from the sale or other disposition of lands that become the property of the municipality by virtue of section 45 shall be distributed in such manner and in such amounts as may be agreed upon, or failing agreement, as the Department may direct, to the bodies that would have received Proceeds of sale, etc., to be distributed.

the proceeds of taxes on such lands, if taxes had been collected in the usual way. 1946, c. 20, s. 7, *part*.

Right of
appeal of
Department.
Rev. Stat.,
c. 24.

53.—(1) The Department shall have the same right of appeal as any person assessed has under subsection 3 of section 69 of *The Assessment Act* with respect to the assessment roll of the municipality, and shall have in addition the rights of appeal conferred by this section.

Idem.

(2) An appeal by the Department under this section may be made at any time within 20 days after the return of the roll and such appeal may be with respect to any particular assessment or omission to assess or generally with respect to all of the assessments included in the roll or any area of the municipality described in the notice of appeal or generally with respect to assessments of land only or buildings only or business included in the roll or in any area of the municipality defined in the notice of appeal.

Appeal from
court of
revision
or judge.

(3) The Department shall have the same right of appeal from any decision of the court of revision or county judge as a person assessed has under *The Assessment Act*.

Procedure.

(4) Save as provided in subsection 2, in any appeal against a particular assessment by the Department the practice and procedure thereon shall be the same as in the case of an appeal by a person assessed.

Practice and
procedure in
general
appeal.

(5) In any general appeal by the Department under this section the practice and procedure shall be determined by the court of revision, county judge or the Board, as the case may be, and such notice or notices of the appeal shall be given by publication or otherwise as may be determined by the court, judge or Board and upon the hearing of any such general appeal the court, judge or Board shall have jurisdiction to review any or all of the assessments included in the roll as may be necessary to determine the appeal and may make any changes, alterations and amendments therein, and also to direct the making of a new assessment roll in accordance with the terms of the order of the court, judge or Board. R.S.O. 1937, c. 59, s. 48.

Compromise
of tax
arrears.

54.—(1) The Department may authorize a compromise of tax arrears to be entered into between the corporation and any ratepayer and in such compromise may provide for an extension of the time of payment of such arrears or a reduction of the amount thereof or both and acceptance of any debentures or debenture coupons of the corporation in satisfaction of the whole or part thereof. R.S.O. 1937, c. 59, s. 49 (1).

(2) Where a compromise of tax arrears has been entered into under this section and an extension of the time of payment thereof agreed upon, such tax arrears shall be and remain a special lien upon the land in respect to which they are payable in priority over all claims, liens, privileges and encumbrances thereon, except claims of the Crown, and the liens, priorities and other rights with respect thereto provided for in *The Assessment Act* shall continue to apply thereto and to the collection and enforcement thereof, except that the treasurer and collector of taxes of the municipality without thereby waiving the statutory rights and powers of the municipality or of themselves shall not enforce collection of such tax arrears during the time the agreement is in force. R.S.O. 1937, c. 59, s. 49 (2); 1938, c. 10, s. 6.

Lien for taxes not affected.

Rev. Stat., c. 24.

55. Any agreement entered into in accordance with this Part shall be binding upon and enure to the benefit of the parties thereto and all persons over whom the Legislature has legislative authority. R.S.O. 1937, c. 59, s. 50.

Effect of agreements.

56. The housing commission may with the approval of the Department amend the terms of any agreement for sale of property heretofore or hereafter entered into by it, and with respect to property sold under any agreement which has been cancelled or determined may enter into new agreements for sale thereof, and the terms of any such amended or new agreement may be such as the Department may approve. R.S.O. 1937, c. 59, s. 51.

Power of housing commission to amend agreements.

57. The jurisdiction and powers of a municipality subject to this Part exercisable under any general or special Act shall only be exercised in accordance with and subject to this Part and any order of the Department or the Board made, or agreement entered into thereunder. R.S.O. 1937, c. 59, s. 52.

Exercise of municipal jurisdiction subject to this Part.

58.—(1) The Department or the Board shall have exclusive jurisdiction as to all matters arising under this Part or out of the exercise by the municipality or any other person of any of the powers conferred by this Part, and such jurisdiction shall not be open to question or review in any action or proceeding or by any court.

Exclusive jurisdiction of Board and Department.

(2) The Department or the Board may at any time of its own initiative or upon application made to it review any order, direction or decision made by it and confirm, amend, vary or revoke the same.

Department's directions subject to review by Board.

(3) Any order made or approval given by the Department or the Board under this Part shall, subject to the right of the

Orders to be final.

Board or the Department to review and amend or revoke the same, be final and conclusive and not open to question in any court.

Board's
jurisdiction.

(4) The Board only shall have and exercise exclusive jurisdiction to make any order under sections 26, 27, 34, 35, 36 and 65, and otherwise shall have jurisdiction only with respect to appeals to it under section 29.

Department's
jurisdiction.

(5) Except as provided by sections 26, 27, 29, 34, 35, 36 and 65, and by subsection 4, the Department only shall have and may exercise exclusive jurisdiction with respect to all matters provided for in this Part. R.S.O. 1937, c. 59, s. 53.

Powers of
Board and
Department.

59. The Department or the Board may make such orders and prescribe such forms from time to time as it may deem necessary to carry out the provisions of this Part or any agreement made in pursuance thereof and make rules and regulations in respect of applications, matters and things under this Part. R.S.O. 1937, c. 59, s. 54.

Forms of
certificates,
notices, etc.

60. Every certificate, notice or other form which is in substantial conformity with the form thereof required by this Part or prescribed by the Department or the Board, shall not be open to objection on the ground that it is not in the form required by this Part or prescribed by the Department or the Board. R.S.O. 1937, c. 59, s. 55.

Powers
exercisable
for and in
name of
municipality.

61. Where a municipality has become subject to this Part, all acts, deeds, matters and things done, made or performed by or for the Board or by or for the Department under this Part in relation to the affairs of such municipality shall for all purposes be deemed to have been made, done and performed by and for the municipality and in its name. R.S.O. 1937, c. 59, s. 56.

Board and
Department
to have
access to all
books and
records.

62. The Board and the Department shall have access at all times to all books, records, papers and documents of the municipality and of every local board, including but without limiting the generality of the foregoing all assessment rolls, collectors' rolls, by-laws, minute books, books of account, vouchers, and other records, papers and documents relating to its and their financial transactions, and may inspect, examine, audit and copy the same or any part thereof. R.S.O. 1937, c. 59, s. 57.

Powers
to enforce
orders.

63.—(1) Where a municipality has become subject to this Part, and its council or any local board fails, neglects or refuses to comply with any order, direction or decision of the Board

or the Department, the Board or the Department may, upon such notice, if any, as it may prescribe, do or order done all acts, deeds, matters and things necessary for compliance with such order or direction, and may exercise all the powers of the council or local board for such purpose and under its or their name and seal.

(2) The council of the municipality and every local board thereof, and every one of its or their members, officers, employees and servants shall comply with the orders, directions and decisions of the Board or the Department in any matter relating to the administration of the affairs of such municipality or local board, and any such person who knowingly or wilfully fails, neglects or refuses to observe and comply with any such order, direction or decision, or who, as a member of the council or local board, votes contrary thereto shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$25 and not more than \$500 for each offence, and any penalty so recovered shall belong to the general funds of the municipality.

Liability of members of council and local boards for non-compliance with orders and directions.

(3) If a municipality subject to this Part applies any of its funds otherwise than as ordered or authorized by the Board or the Department, the members of the council or local board who vote for such application shall be jointly and severally liable for the amount so applied, and the same may be recovered in any court of competent jurisdiction, and such members shall also be disqualified from holding any municipal office for five years. R.S.O. 1937, c. 59, s. 58.

Personal liability and disqualification of members of council and local boards.

64. The Department may dismiss from office any officer, employee or servant of a municipality who fails, neglects or refuses to carry out any order, direction or decision of the Board or the Department. R.S.O. 1937, c. 59, s. 59.

Dismissal of municipal officers.

65. The Board may by injunction proceedings instituted in its own name prevent or stop the exercise by or for a municipality of any of its powers which have not been approved by the Board or the Department, when such approval is required under this Part. R.S.O. 1937, c. 59, s. 60.

Injunction against exercise of municipal powers.

66. The Department may direct that any two or more of the offices of the municipality shall be combined and held by the same officer, and may subsequently separate any of the offices so combined. R.S.O. 1937, c. 59, s. 61.

Department may combine municipal offices.

67.—(1) The Department may direct payment of such fees, or remuneration and travelling and other expenses reasonably incurred by the Department as it may determine.

Expenses of Department.

Depart-
ment's
officer.

(2) The Department may appoint some person who may be an officer of the municipality to exercise such powers and duties as the Department may provide, and the person so appointed shall be paid such salary and allowed such travelling and other expenses as the Department may determine.

Council may
be heard
as to
salaries.

(3) The Department in determining the salaries to be paid to any person appointed by it under subsection 2 shall give consideration to such representations with respect thereto as the council may at any time make.

Salaries and
expenses to
be paid by
municipality.

(4) All salaries, fees, remuneration, travelling and other expenses payable under this section and all other expenses incurred by the Board or the Department in carrying out the provisions of this Part or in the exercise of their powers thereunder shall be paid by the municipality or local board, as the case may be, and be chargeable to such of its accounts as the Department may direct. R.S.O. 1937, c. 59, s. 62.

Provisions
of this Act
to prevail.

68. The powers contained in this Part shall be deemed to be in addition to and not in derogation of any power of the Board, Department or municipality under this or any other Act, but where the provisions of any general or special Act or any other Part of this Act conflict with the provisions of this Part, the latter shall prevail. R.S.O. 1937, c. 59, s. 63.

Board may
end appli-
cation of
this Part.

69.—(1) Where the Department is of opinion that the affairs of a municipality no longer require to be administered under this Part the Board may make an order directing that on, from and after a date fixed thereby this Part shall no longer apply to the municipality and on, from and after such date the Board and the Department shall cease to exercise jurisdiction and control over the municipality under this Part. R.S.O. 1937, c. 59, s. 64.

Tax arrears
procedures.

(2) Notwithstanding the provisions of subsection 1 or of an order made thereunder, where such order has been or is made, the tax arrears procedures of this Part shall continue to apply to the municipality in the same manner as if such order had not been made and the tax sale procedures of *The Assessment Act* shall not apply and the use or disposition of any land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition shall be subject to the approval of the Department. 1943, c. 28, s. 15.

Rev. Stat.,
c. 24.

Power of
Board
under s. 34,
to continue
to apply.

70. Where the Department has heretofore ceased or hereafter ceases to exercise jurisdiction and control over a municipality under this Part pursuant to an order made under sec-

tion 69, the Board shall notwithstanding such order continue to have and may, subject to the approval of the Department, exercise any of the powers mentioned in section 34 in the same manner as if such order had not been made. 1942, c. 9, s. 3, *part*.

71. Subject to *The City of Windsor (Amalgamation) Act, 1935*, the municipalities and local boards heretofore declared subject to Part VI of *The Ontario Municipal Board Act, 1932* or Part III of *The Department of Municipal Affairs Act, 1935* shall be and remain subject to this Part and to the jurisdiction and control of the Board and the Department as provided for in this Part. R.S.O. 1937, c. 59, s. 65; 1938, c. 10, s. 7.

Certain municipalities and local boards subject to this Part.

1935, c. 74;
1932, c. 27;
1935, c. 16.

FORM 1

(Section 45 (3))

TAX ARREARS CERTIFICATE

To the Registrar of the Registry Division of the.....of.....

I HEREBY CERTIFY by virtue of *The Department of Municipal Affairs Act*, section 45, that the lands hereinafter described, by reason of certain taxes thereon remaining unpaid for the period mentioned in said section are hereby vested in and have become the property of the.....of.....(naming the municipality).

Description of Lands	Amount of Unpaid Taxes with Penalties, Interest and Costs	Whether Vacant or Improved Land

The period within which the right of redemption may be exercised under the said Act with respect to the above described land is one (1) year from the date of registration of this certificate.

Dated at.....this.....day of.....,19....

.....
Treasurer

R.S.O. 1937, c. 59, Form 1.

FORM 2

(Section 45 (4))

NOTICE OF REGISTRATION OF TAX ARREARS CERTIFICATE

TAKE NOTICE that by virtue of *The Department of Municipal Affairs Act*, section 45, a tax arrears certificate has been registered against the following lands, namely:

.....

and by reason thereof the same are vested in and have become the property of the corporation of the.....of.....(naming the municipality) subject only to your right of redemption of the same on or before the..... day of....., 19....., which is the last day for redemption.

Dated at.....this.....day of....., 19.....

.....
Treasurer

R.S.O. 1937, c. 59, Form 2.

FORM 3

(Section 47 (2))

REDEMPTION CERTIFICATE

To the Registrar of the Registry Division of the.....of.....

I HEREBY CERTIFY that the lands hereunder described have been redeemed by.....under the provisions of *The Department of Municipal Affairs Act*.

Description of Lands

.....

Take notice that where land is redeemed by any person entitled to redeem the same other than the owner, such person has a lien upon the owner's interest therein for the amount paid to redeem said land.

Dated at.....this.....day of....., 19.....

.....
Treasurer

R.S.O. 1937, c. 59, Form 3.

FORM 4

(Section 50 (1))

VACATING CERTIFICATE

To the Registrar of the Registry Division of the.....of.....

I HEREBY CERTIFY that the title of the corporation of the
.....of.....to the lands hereunder
described is hereby vacated by the said corporation under the provisions
of *The Department of Municipal Affairs Act*.

Description of Lands

.....
.....

Dated at.....this.....day of....., 19.....

.....
Treasurer

R.S.O. 1937, c. 59, Form 4.

CHAPTER 97

**The Department of Planning and
Development Act****1.** In this Act,Interpre-
tation.

(a) "Department" means Department of Planning and Development;

(b) "Minister" means Minister of Planning and Development. 1944, c. 16, s. 1.

2. There shall be a department of the public service to be known as the Department of Planning and Development over which the Minister shall preside and have charge. 1944, c. 16, s. 2.

Department
established.

3. The Minister shall collaborate with the Ministers having charge of the other departments of the public service of Ontario, with the Ministers having charge of the departments of the public service of Canada and of other provinces, with municipal councils, with agricultural, industrial, labour, mining, trade and other associations and organizations and with public and private enterprises with a view to formulating plans to create, assist, develop and maintain productive employment and to develop the human and material resources of Ontario, and to that end shall co-ordinate the work and functions of the departments of the public service of Ontario. 1944, c. 16, s. 3.

Duties of
Minister.

4. The Minister shall be responsible for the administration of such Acts and regulations made thereunder as may be assigned to him by the provisions thereof or by the Lieutenant-Governor in Council. 1944, c. 16, s. 4.

Responsi-
bility of
Minister.

5. The expenses of the Department in carrying out its objects shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1944, c. 16, s. 5.

Expenses
of Depart-
ment.

6.—(1) The Minister may appoint one or more persons to inquire into any matter relating to the scheme and purpose of this Act and to collect such information and make such report as he deems advisable.

Inquiries.

Powers of
person hold-
ing inquiry.

(2) Every person appointed to inquire into any matter under subsection 1 shall have the power to summon any person and to require him to give evidence on oath and to produce such documents and things as may be requisite, and every person so appointed shall have the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. 1944, c. 16, s. 6.

CHAPTER 98

The Department of Public Welfare Act

1. In this Act,

Interpre-
tation.

(a) "Department" means Department of Public Welfare;

(b) "Minister" means Minister of Public Welfare. 1948,
c. 23, s. 1.

2. There shall be a department of the public service to be known as the Department of Public Welfare over which the Minister shall preside and have charge. 1948, c. 23, s. 2.

Department
established.

3. The Minister shall be responsible for the administration of the following Acts and such other Acts as may be assigned to him by the Lieutenant-Governor in Council:

Jurisdiction
of Minister.(a) *The Adoption Act*;(b) *The British Child Guests Act, 1941*;(c) *The Charitable Institutions Act*;(d) *The Children of Unmarried Parents Act*;(e) *The Children's Protection Act*;(f) *The Day Nurseries Act*;(g) *The Homes for the Aged Act*;(h) *The Mothers' Allowances Act*;(i) *The Old Age Pensions Act*;(j) *The Unemployment Relief Act*. 1948, c. 23, s. 3.

4. The Minister may,

Powers of
Minister.

(a) institute inquiry into and collect information and statistics relating to all matters of public welfare;

- (b) disseminate information in such manner and form as may be found best adapted to promote public welfare;
- (c) secure the observance and execution of all Acts and regulations dealing with matters of public welfare;
- (d) cause investigation to be made into all activities, agencies, organizations, associations or institutions having for their object the social welfare or care of men, women or children in Ontario and which are not under the control of any other department of the public service of Ontario;
- (e) declare any institution or organization to be a charitable institution. 1948, c. 23, s. 4.

Annual
report.

5.—(1) The Minister shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Department.

Tabling.

(2) The Provincial Secretary shall submit the report to the Lieutenant-Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. 1948, c. 23, s. 5.

Control over
charitable
institutions.

6. The Lieutenant-Governor in Council may,

- (a) declare any institution or organization having charitable objects or purposes, or any class or classes of such institutions or organizations, to be subject to the control of the Minister;
- (b) make regulations governing the operation and activities of institutions and organizations which are declared to be subject to the control of the Minister under this section, including regulations governing the procuring of funds from the public and the application thereof by such institutions and organizations. 1948, c. 23, s. 6.

CHAPTER 99

The Department of Reform Institutions Act

1. In this Act,

Interpre-
tation.

(a) "Department" means Department of Reform Institutions;

(b) "Minister" means Minister of Reform Institutions.
1946, c. 22, s. 1.

2. There shall be a department of the public service to be known as the Department of Reform Institutions over which the Minister shall preside and have charge. 1946, c. 22, s. 2.

Department
established.

3. The Minister shall be responsible for the administration of:

Acts to be
adminis-
tered.(a) *The Andrew Mercer Reformatory Act*;(b) *The Extramural Employment of Persons under Sentence Act*;(c) *The Female Patients and Prisoners Protection Act*; R.S.O. 1937,
c. 317.(d) *The Female Refuges Act*;(e) *The Industrial Farms Act*;(f) *The Jails Act*;(g) *The Parole Act*;(h) *The Penal and Reform Institutions Inspection Act*;(i) *The Reformatories Act*;(j) *The Training Schools Act*,

and the regulations thereunder and such other Acts and the regulations thereunder as may be assigned to him by the Lieutenant-Governor in Council. 1946, c. 22, s. 3.

Expenses of
Department.

4. The expenses of the Department in carrying out its objects shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1946, c. 22, s. 4.

Powers of
investiga-
tion.

5. The Minister may direct any officer of the Department or any other person to investigate and inquire into and report to him upon any matter connected with or affecting,

(a) any institution coming under his jurisdiction;

Rev. Stat.,
c. 268.

(b) the welfare of the inmates of any such institutions or of persons who are on parole under *The Parole Act*; or

(c) the administration of the Department. 1946, c. 22, s. 5.

Custodial
officers to be
constables.

6. Every officer having any custodial duties at any institution under the jurisdiction of the Minister shall be *ex officio* a constable. 1948, c. 24, s. 1.

CHAPTER 100

The Department of Travel and Publicity Act

1. In this Act,

Interpre-
tation.

- (a) "Department" means Department of Travel and Publicity;
- (b) "Minister" means Minister of Travel and Publicity;
- (c) "regulations" means regulations made under this Act. 1946, c. 23, s. 1.

2. There shall be a department of the public service to be known as the Department of Travel and Publicity over which the Minister shall preside and have charge. 1946, c. 23, s. 2.

Department
established.

3. The objects of the Department shall be to develop the tourist industry in Ontario by encouraging and promoting improvement in the standards of accommodation, facilities and services offered to tourists and to undertake the publicizing of the tourist industry and of the resources, attractions and advantages of Ontario. 1946, c. 23, s. 3.

Objects of
Department.

4. The Minister shall be responsible for the administration of such Acts and regulations made thereunder as may be assigned to him by the provisions thereof or by the Lieutenant-Governor in Council. 1946, c. 23, s. 4.

Responsi-
bility of
Minister.

5.—(1) The Minister shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Department.

Annual
report.

(2) The Provincial Secretary shall submit the report to the Lieutenant-Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. 1949, c. 26, s. 1.

Tabling.

6. The expenses of the Department in carrying out its objects shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1946, c. 23, s. 5.

Expenses of
Department.

7. The Minister may direct any officer of the Department or any other person to investigate, inquire into and report to him upon any matter connected with or affecting the tourist

Investiga-
tion.

industry including accommodation, facilities or services offered to tourists, or the advertising or publicizing thereof or of the resources, attractions or advantages of Ontario and for the purposes of the investigation and inquiry such officer or other person shall have all the powers and authority which may be conferred upon a commissioner under *The Public Inquiries Act*. 1946, c. 23, s. 6.

Rev. Stat.,
c. 308.

Tourist
information.

8. No person, except an authorized agent or employee of any governmental or municipal authority, board of trade, chamber of commerce, *bona fide* tourist development association, *bona fide* travel agency or company transporting passengers by rail, boat, air or bus, shall, without the approval in writing of the Minister, display any sign or other device on or near any premises indicating that information for tourists or other similar service is available from him or on the premises. 1949, c. 26, s. 2, *part*.

Distribution
of
advertising
matter.

9. No person shall distribute within or send from Ontario any advertising matter connected with or affecting the tourist industry including accommodation, facilities or service offered to tourists, or advertising or publicizing the resources, attractions or advantages of Ontario that does not comply with the regulations. 1949, c. 26, s. 2, *part*.

Display of
notices by
tourist
estab-
lishments.

10. Every person who offers accommodation, facilities or services of any type prescribed by the regulations shall display a notice bearing the words "closed", "open", "vacancy" or "no vacancy", as the case may be, in accordance with the regulations. 1949, c. 26, s. 2, *part*.

Regulations.

11. The Lieutenant-Governor in Council may make regulations with respect to the tourist industry,

(a) regulating the form and contents of all or any class of advertising matter mentioned in section 9;

Rev. Stat.,
c. 166.

(b) subject to *The Highway Improvement Act*, regulating the size, style and location of the notices mentioned in section 10, and prescribing the type of accommodation, facilities or services to which such regulations shall apply. 1949, c. 26, s. 2, *part*.

Penalty.

12. Every person who violates any of the provisions of this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. 1946, c. 23, s. 9.

CHAPTER 101

The Dependants' Relief Act

1. In this Act,

Interpreta-
tion.

- (a) "applicant" means a dependant making application for an allowance under this Act, or in the case of a dependant who is a patient in an institution under *The Mental Hospitals Act*, or who has been declared a mentally incompetent person, the Public Trustee or committee of such person as the case may be, or in the case of an infant, the Official Guardian, applying for an allowance under this Act on behalf of such patient in an institution under *The Mental Hospitals Act*, mentally incompetent person or infant, as the case may be; Rev. Stat.,
c. 229.
- (b) "dependant" means the wife or husband of a testator, the child of a testator under the age of 16 years or the child of a testator over that age who through illness or infirmity is unable to earn a livelihood;
- (c) "executor" includes administrator with the will annexed;
- (d) "letters probate" includes letters of administration with the will annexed;
- (e) "testator" means a person who by deed or will or by any other instrument or act so disposes of real or personal property, or any interest therein, that the same will pass at his death to some other person;
- (f) "will" means any deed, will, codicil, instrument or other act by which a testator so disposes of real or personal property that the same will pass at his death to some other person. R.S.O. 1937, c. 214, s. 1.

2.—(1) Where it is made to appear to a judge of the surrogate court of the county or district in which a testator was domiciled at the time of death that such testator has by will so disposed of real or personal property that adequate provision has not been made for the future maintenance of his dependants or any of them, the judge may make an order Order for
allowance
for main-
tenance.

charging the whole or any portion of the estate in such proportion and in such manner as to him may seem proper, with payment of an allowance sufficient to provide such maintenance.

Form of
allowance.

(2) The allowance may be by way of an amount payable annually or otherwise, or of a lump sum to be paid, or of certain property to be conveyed or assigned either absolutely or for life or for a term of years to the dependant by whom or on whose behalf the application is made, or for his use and benefit as the judge may see fit, and in the event of a conveyance of property being ordered the judge may give all necessary and proper directions for the execution of the conveyance or conveyances, either by the executor or by such other person as the judge may direct, or may grant a vesting order. R.S.O. 1937, c. 214, s. 2.

Who may
apply.

Rev. Stat.,
c. 229.

3. The application for an allowance may be made by a dependant, or in the case of a dependant who is a patient in an institution under *The Mental Hospitals Act*, or has been declared a mentally incompetent person, by the Public Trustee or committee as the case may be, or in the case of a dependant under the age of 21 years, by the Official Guardian, or by a guardian appointed by the court. R.S.O. 1937, c. 214, s. 3.

Procedure.

4.—(1) The application shall be made to the judge in chambers upon originating notice according to the practice of the court.

When
application
to be made.

(2) Where letters probate have been or are applied for by the wife or husband of the testator or a guardian on behalf of minor dependants, an application under this section for an allowance for such wife or husband, or for such minor dependants shall be made at the time of applying for letters probate and in every other case the application shall be made within three months after the death of the testator, but the judge, if he deems it just, may allow an application to be made at any time as to any portion of the estate remaining undistributed at the date of the application.

Distribution
of estate
postponed.

(3) After service of notice of the application the executors or trustees under the will shall not proceed with the distribution of the estate except so far as may be necessary for the payment of debts and funeral and testamentary expenses and succession duty until the application is disposed of.

Removal
into
Supreme
Court.

(4) At any time before the hearing of the application a judge of the Supreme Court upon motion on behalf of the

trustees or executors, or the applicant, or any other person interested, and upon being satisfied that the total value of the estate of the testator exceeds \$10,000, may by order direct that the application shall be heard by a judge of the Supreme Court and thereupon the matter shall be transferred into the Supreme Court and the application shall be heard by a judge of the Supreme Court and he shall have the like powers and shall proceed in the like manner as in the case of a hearing and determination by the judge of the surrogate court.

(5) Where any person by whom, or on whose behalf, an application for an allowance may be made under this Act is a patient in an institution under *The Mental Hospitals Act*, at the time of the death of the testator, or at any time before the application under this Act is heard and disposed of, notice of the application for letters probate shall be served upon the Public Trustee on behalf of such person, and the time within which the Public Trustee may make an application for an allowance under this Act shall run from the date of the service of such notice.

Persons in
institutions
under *Mental
Hospitals Act*.
Rev. Stat.,
c. 229.

(6) Where any person interested in the estate in respect of which an application is made under this Act is a patient in an institution under *The Mental Hospitals Act*, notice of the application for an allowance shall in every case be served upon the Public Trustee who shall have the right to appear and be heard upon the application. R.S.O. 1937, c. 214, s. 4.

Notice to
Public
Trustee.
Rev. Stat.,
c. 229.

5. The judge shall not make any order until he is satisfied upon oath that all persons who are or may be interested in or affected by the order have been served with notice of the application as provided by the rules of court and every such person shall be entitled to be present and to be heard in person or by counsel at the hearing. R.S.O. 1937, c. 214, s. 5.

Notice to
parties
before order.

6. The evidence taken on any such application shall be given orally before the judge and shall be taken down in writing or in shorthand in the same manner as in the case of a trial of an action before a judge without a jury. R.S.O. 1937, c. 214, s. 6.

Evidence
to be given
orally.

7. The judge upon the hearing of the application shall inquire into and consider,

Matters to
be considered
by judge.

- (a) the circumstances of the testator at the time of death;
- (b) the circumstances of the person on whose behalf the application is made;

- (c) the claims which any other person may have as a dependant of the testator;
- (d) any provision which the testator may have made *inter vivos* for dependants or any dependant;
- (e) any services rendered by dependants to the testator;
- (f) any sum of money or any property provided by a dependant for the testator for the purpose of providing a home or assisting in any business or occupation or for maintenance or medical or hospital expenses; and
- (g) generally any other matters which the judge deems should be fairly taken into account in deciding upon the application. R.S.O. 1937, c. 214, s. 7.

Payment
for services
rendered to
testator.

8. Where the dependant has given personal assistance or the gift or loan of money or real or personal property towards the advancement of the testator in any business or occupation, the judge may in and by his order fix a value in money upon such assistance, or may fix the amount or value in money of any gift or loan so made, and may direct that the applicant shall rank as a creditor upon the estate therefor, in the same manner and to the same extent as a judgment creditor upon a simple contract debt, but except as to the amount so fixed as the value of such assistance or as the amount or value in money of such gift or loan an allowance payable under this Act shall be postponed to the claims of creditors of the estate. R.S.O. 1937, c. 214, s. 8.

When widow
disqualified.

9. No order shall be made under this Act in favour of a wife who was living apart from her husband at the time of his death under circumstances which would disentitle her to alimony. R.S.O. 1937, c. 214, s. 9.

Limit of
amount or
value of
allowance.

10. Subject to section 8, the amount or value of any allowance ordered to be paid, together with the value of any benefits given under the will of the testator, shall not exceed the amount to which the person in whose favour the order is made would have been entitled if the testator had died intestate. R.S.O. 1937, c. 214, s. 10; 1942, c. 34, s. 11; 1947, c. 30, s. 1.

Costs.

11. The judge may direct that the costs of the application shall be payable out of the estate or otherwise as he may deem just and may fix the amount of the costs payable by any party, exclusive of necessary disbursements, at a lump sum

having regard to the value of the estate and the amount of any allowance applied for or directed by his order. R.S.O. 1937, c. 214, s. 11.

12. Except as to costs, an appeal shall lie to the Court of Appeal. Appeal from any order made under this Act and the Court of Appeal upon such appeal may annul the order, reduce or increase the amount or value of any allowance fixed by the order, or where the order dismissed the application, may reverse the dismissal and fix the amount or value of the allowance, and the decision of the court upon the appeal shall be final. 1948, c. 25, s. 1.

13. *The Judges' Orders Enforcement Act* shall apply to any order made under this Act. R.S.O. 1937, c. 214, s. 13. Application of Rev. Stat., c. 189.

CHAPTER 102

**The Deserted Wives' and Children's
Maintenance Act**

1.—(1) Where a wife has been deserted by her husband an information may be laid before a justice of the peace and the justice of the peace may issue a summons against the husband in the form in the Schedule to this Act and if upon the hearing before a magistrate, it appears that the husband has deserted his wife without having made adequate provision for her maintenance and the maintenance of his children residing with her and that he is able to maintain them in whole or in part and neglects or refuses so to do, the magistrate may order him to pay such sum at such intervals as may be deemed proper, having regard to all the circumstances and the order may be in the form in the Schedule to this Act. R.S.O. 1937, c. 211, s. 1 (1); 1950, c. 15, s. 1.

Order for
maintenance
of wife.

(2) A married woman shall be deemed to have been deserted within the meaning of this section when she is living apart from her husband because of his acts of cruelty, or of his refusal or neglect, without sufficient cause, to supply her with food and other necessities when able so to do, or of the husband having been guilty of adultery which has not been condoned and which is duly proved, notwithstanding the existence of a separation agreement, providing there has been default thereunder and whether or not the separation agreement contains express provisions excluding the operation of this Act.

Desertion
of wife.

(3) Without restricting in any way the generality of subsection 2, conduct causing reasonable apprehension of bodily injury, or of injury to health, without proof of actual personal violence, which renders the home an unfit place, either for a wife or a child, may be held to constitute acts of cruelty within the meaning of subsection 2.

What may
constitute
cruelty.

(4) No order shall be made in favour of a wife who is proved to have committed adultery unless the adultery has been condoned, and any order may be rescinded upon proof that the wife, since the making thereof, has been guilty of adultery if it has not been condoned.

Cases of
adultery.

Effect of
finding of
adultery.

(5) A finding by the magistrate that adultery has been proved shall not be evidence of the adultery in any other proceedings. R.S.O. 1937, c. 211, s. 1 (2-5).

Order for
maintenance
of child.

2.—(1) A father who has deserted his child may be summoned before a magistrate or a judge of a juvenile court having jurisdiction where the father or the child then resides, who, if satisfied that the father has wilfully refused or neglected to maintain the child and has deserted the child, may order that the father shall pay to the person named in the order for the support of the child such sum at such intervals as the magistrate or judge deems proper, having regard to the means of the father and to any means the child may have for his support, but such sum shall not exceed a rate of \$20 a week with or without costs. 1950, c. 15, s. 2.

When child
deemed to
have been
deserted.

(2) A child shall be deemed to have been deserted by his father within the meaning of this section when the child is under the age of 16 years and when the father has, without adequate cause, refused or neglected to supply the child with food or other necessities when able so to do. R.S.O. 1937, c. 211, s. 2 (2).

Custody of
child.

(3) The magistrate or judge may in any order made under this section make provision as to the custody of the child and the right of access thereto of any person, or of either parent, having regard to the welfare of the child and to the conduct of the parent or person and to the wishes of the mother as well as of the father, and may at any time alter, vary or discharge any provision so made. 1948, c. 26, s. 1.

Contempt
of custody
orders.

(4) Every person who wilfully resists any provision as to custody and right of access in any order made under this section shall be guilty of contempt and on summary conviction before the magistrate or judge or any magistrate or judge having jurisdiction in the court in which the order was made shall be liable to a penalty of not more than \$100 or to imprisonment for a term of not more than three months, or to both. 1949, c. 27, s. 1.

Order to
report to
officer.

3.—(1) Where an order for payment of maintenance or support is made under this Act and any person for whose benefit the order is made is a public charge or the judge or magistrate making the order is of opinion that if there is default therein any person is likely to be a public charge, he shall order the person required to make the payments to report to an officer for such period and at such times and places as he may deem necessary and to satisfy such officer that he is complying with the order for payment.

(2) Where a judge or magistrate orders any person to report to an officer under this section he shall designate the officer and may by further order alter such designation.

Designation of officer.

(3) In this Act, "officer" means a probation officer appointed under *The Probation Act*, a local superintendent as defined in *The Children's Protection Act* or any other official of the Department of Public Welfare or of any municipality, designated by the Minister.

Interpretation.

Rev. Stat., cc. 291, 53.

(4) Every person who without reasonable excuse fails to report to an officer as required by this section shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a term of not more than three months.

Failure to report to officer.

(5) An order made under this Act certified by the judge or magistrate making it, or a certificate of a judge or magistrate as to the making of an order by him, shall be receivable in evidence as proof of the making of such order in any prosecution under this section without proof of the office or signature of the person certifying. 1942, c. 11, s. 1.

Certificate of judge or magistrate.

4. A complaint under this Act may be laid by a deserted wife or child or by a person having the care and custody of a deserted child, or, with the consent of the Crown attorney, by any other person. R.S.O. 1937, c. 211, s. 3.

Who may lay complaint.

5. The judge or magistrate may in any order set a time limit, not exceeding 30 days, within which each sum of money ordered to be paid and the costs shall be paid. R.S.O. 1937, c. 211, s. 4.

Time limit.

6.—(1) Where a judge is satisfied that,

Rehearing of application.

(a) the circumstances of any of the parties have changed since the making of an order; or

(b) evidence has become available which was not available upon the previous hearing,

he may direct a rehearing of the application.

(2) Upon the rehearing of the application any order previously made may be confirmed, rescinded or varied.

Order may be confirmed, etc.

(3) In this section, "judge" means,

Interpretation.

(a) the judge or magistrate who made the order; or

- (b) if such judge or magistrate is dead, ill, or absent from his territorial jurisdiction, any other judge of the juvenile court or magistrate whose jurisdiction in the same locality is such that an information similar to the original information could be laid before him; or
- (c) any judge of the juvenile court or magistrate who has jurisdiction in the locality in which the person in whose favour the order is made resides. 1950, c. 15, s. 3.

Applications
may be
heard in
private.

7. Any application may be heard by the judge or magistrate in private. R.S.O. 1937, c. 211, s. 6.

Payment of
expenses.

8. Where it is necessary to incur expense in serving a warrant or summons or in carrying out any of the provisions of this Act, and the complainant is unable to pay such expenses, they may be paid out of such sum as may be appropriated by the Legislature for that purpose. R.S.O. 1937, c. 211, s. 7.

Application
of Rev. Stat.,
c. 379.

9.—(1) Except as otherwise provided, proceedings under this Act shall be in accordance with *The Summary Convictions Act*, and any order for the payment of money made hereunder may be enforced as if it were an order or conviction made under such Act, but imprisonment shall only be ordered under subsection 2 of this section, subsection 4 of section 2, or subsection 4 of section 3. R.S.O. 1937, c. 211, s. 8 (1); 1942, c. 11, s. 2, *amended*.

Enforcement
of order,

(2) Whenever default is made in the payment of any sum of money ordered to be paid the judge of the juvenile court or magistrate who made the order, or any other judge of the juvenile court or magistrate before whom an information similar to the original information could be laid, or any judge of the juvenile court or magistrate who has jurisdiction in the locality in which the person in whose favour the order is made resides,

by summons;

- (a) may from time to time summon the person in default to explain the default;

by warrant
to arrest;

- (b) may, where service of the summons has been proved, and the person summoned does not appear or sufficient reason for his absence is not given, or where it appears that the summons cannot be served or where an order of imprisonment has been made, issue a warrant for the arrest of such person; or

- (c) may, when a warrant has been issued, or where the person in default fails to satisfy the magistrate that such default is due to inability to pay, order and adjudge such person to be imprisoned for a term of not more than three months unless the sums of money payable under the order or such lesser sums as the judge may see fit to designate, are sooner paid. R.S.O. 1937, c. 211, s. 8 (2).

(3) Whenever default is made in the payment of any sum of money ordered to be paid, the judge of the juvenile court or magistrate who made the order may send a duplicate original of the order, together with a statement showing such information as he possesses of the circumstances of the case and for facilitating the identification of the person against whom the order was made and the location of his place of residence, to any judge of a juvenile court having jurisdiction in the matter in the locality in which such person resides, or to any magistrate in or near such locality, and upon receipt thereof the judge of the juvenile court or magistrate, as the case may be, shall summon the person in default to explain the default and may, if he is satisfied as to the justice of the order, exercise any of the powers mentioned in clauses *b* and *c* of subsection 2, and when he has dealt with the matter he shall send a report thereon to the judge of the juvenile court or magistrate who made the order. 1948, c. 26, s. 2.

10. Any order for payment of money may also be filed with the clerk of any division court and enforced by execution and by judgment summons as in the case of a judgment in the division court. R.S.O. 1937, c. 211, s. 9.

SCHEDULE

THE DESERTED WIVES' AND CHILDREN'S MAINTENANCE ACT

SUMMONS

(Section 1 (1))

County (or District)
of To A.B., of

Whereas application has this day been made by your wife (or child), C.B., to the undersigned Magistrate (or Justice of the Peace, *as the case may be*) for for a summons under *The Deserted Wives' and Children's Maintenance Act*, for that you have wilfully refused or neglected to maintain your said wife (or your wife and family, *as the case may be*) or your child, and have deserted your said wife or child. These are, therefore, to command you to appear before the undersigned or such magistrate or justices as may then and there be present in my (or our) stead, at on the day after the service hereof, at the hour of in the noon, to show cause why an order should not be made against you, to pay to your said wife for her support (or for the support of her and your family, *as the case may be*, or to your child for his support), such sum not exceeding the rate of \$20 weekly (*where application is for maintenance of wife omit the words and figures "not exceeding the rate of \$20 weekly"*), as may be considered to be in accordance with your means and with the means of your said wife (or child).

Given under hand and seal day of, 19...
J.S. (L.S.)

THE DESERTED WIVES' AND CHILDREN'S MAINTENANCE ACT

ORDER

(Section 1 (1))

County (or District)
of

Upon reading the summons dated the day of 19..., issued by Magistrate for the (or Justices of the peace for), upon the application of C.B., wife or child of A.B., under the provisions of *The Deserted Wives' and Children's Maintenance Act*, and upon hearing all the parties (or *as the case may be*) and the evidence adduced, and it appearing that the said C.B. is entitled to the benefit of the said Act:

I (or we), the undersigned, do hereby order that the said A.B. do pay hereafter to his said wife, or her agent (or his child or his child's agent), authorized in writing, at the sum of \$ for her support (or for the support of her and the family of the said A.B. or for support of the child), the first payment to be made on the day of 19..., together with the costs of these proceedings, which amount to \$ which shall be paid on or before the day of 19....

Given under hand and seal day of, 19...
J.S. (L.S.)

CHAPTER 103

The Devolution of Estates Act

1. In this Act,

Interpre-
tation.

(a) "mentally incompetent person" means a person,

(i) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or

(ii) who is suffering from such a disorder of the mind,

that he requires care, supervision and control for his protection and the protection of his property;

(b) "mental incompetency" means the condition of mind of a mentally incompetent person;

(c) "personal representative" means an executor, an administrator, or an administrator with the will annexed. R.S.O. 1937, c. 163, s. 1.

2.—(1) All real and personal property which is vested in any person without a right in any other person to take by survivorship shall, on his death, whether testate or intestate, and notwithstanding any testamentary disposition, devolve to and become vested in his personal representative from time to time as trustee for the persons by law beneficially entitled thereto and, subject to the payment of his debts, and so far as such property is not disposed of by deed, will, contract or other effectual disposition, the same shall be administered, dealt with and distributed as if it were personal property not so disposed of.

Devolution
to personal
representa-
tive of
deceased.

(2) This section shall apply to property over which a person executes by will a general power of appointment as if it were property vested in him.

Idem,
where under
appoint-
ment.

(3) This section shall not apply to estates tail or to the personal property, except chattels real, of any person who,

Exceptions.

at the time of his death, is domiciled out of Ontario. R.S.O. 1937, c. 163, s. 2.

Application of enactments as to probate, etc.

3. The enactments and rules of law relating to the effect of probate or letters of administration as respects personal property and as respects the dealings with personal property before probate or administration and as respects the payment of costs of administration and other matters in relation to the administration of personal estate and the powers, rights, duties and liabilities of personal representatives in respect of personal estate shall apply to real property vesting in them, so far as the same are applicable as if that real property were personal property, save that it shall not be lawful for some or one only of several joint personal representatives without the authority of the Supreme Court or a judge thereof to sell or transfer real property. R.S.O. 1937, c. 163, s. 3.

Real and personal property assimilated in matters of administration.

4. Subject to the other provisions of this Act, in the administration of the assets of a deceased person, his real property shall be administered in the same manner, subject to the same liability for debts, costs and expenses and with the same incidents as if it were personal property, but nothing in this section shall alter or affect as respects real or personal property of which the deceased has made a testamentary disposition the order in which real and personal assets are now applicable to the payment of funeral and testamentary expenses, the costs and expenses of administration, debts or legacies, or the liability of real property to be charged with the payment of legacies. R.S.O. 1937, c. 163, s. 4.

Payment of debts out of residuary estate.

Rev. Stat., c. 426.

5. Subject to section 37 of *The Wills Act*, the real and personal property of a deceased person comprised in any residuary devise or bequest shall, except so far as a contrary intention appears from his will or any codicil thereto, be applicable rateably, according to their respective values, to the payment of his debts, funeral and testamentary expenses and the cost and expenses of administration. R.S.O. 1937, c. 163, s. 5.

How far personal representatives to be deemed "heirs".

6. When any part of the real property of a deceased person vests in his personal representative under this Act such personal representative, in the interpretation of any Act of the Legislature, or in the construction of any instrument to which the deceased was a party, or under which he is interested, shall, while the estate remains in him, be deemed in law his heir, as respects such part, unless a contrary intention appears, but nothing in this section shall affect

the beneficial right to any property, or the construction of words of limitation of any estate in or by any deed, will or other instrument. R.S.O. 1937, c. 163, s. 6.

7. Where an estate or interest of inheritance in real property is vested on any trust or by way of mortgage in any person solely the same shall on his death, notwithstanding any testamentary disposition, devolve to and become vested in his executor or administrator in like manner as if the same were personal estate vesting in him and, accordingly, all the like powers for one only of several joint executors or administrators as well as for a single executor or administrator and for all the executors and administrators together to dispose of and otherwise deal with the same shall belong to the deceased's executor or administrator with all the like incidents but subject to all the like rights, equities and obligations as if the same were personal estate vesting in him, and for the purposes of this section the executor or administrator of the deceased shall be deemed in law his heirs and assigns within the meaning of all trusts and powers. R.S.O. 1937, c. 163, s. 7. Trust estates and interests of mortgagees.

8.—(1) Nothing in this Act shall take away a widow's right to dower; but a widow may by deed or instrument in writing, attested by at least one witness, elect to take her interest under this Act in her husband's undisposed of real property in lieu of all claim to dower in respect of the real property of which her husband was at any time seised, or to which at the time of his death he was beneficially entitled, and unless she so elects she shall not be entitled to share in the undisposed of real property. Saving as to dower and right of election.

(2) The personal representative of the deceased may, by notice in writing, require the widow to make her election, and if she fails to execute and deliver a deed or instrument of election to him within six months after the service of the notice she shall be deemed to have elected to take her dower. Notice to elect.

(3) Where the widow is an infant or a mentally incompetent person the right of election may be exercised on her behalf by the Official Guardian, with the approval of a judge of the Supreme Court or by some person authorized by a judge of the Supreme Court to exercise it, and the Official Guardian or the person so authorized may, for and in the name of the widow, give all notices and do all acts necessary or incidental to the exercise of such right. Where widow under disability.

(4) Where the widow is a patient in an institution within the meaning of *The Mental Hospitals Act*, and the Public Trustee is committee of her estate, he shall be entitled to Widow patient in mental hospital.

exercise on her behalf the power of election conferred by this section. R.S.O. 1937, c. 163, s. 8.

Who to be
defendants in
action for
foreclosure
where no per-
sonal repre-
sentative of
mortgagor.

9.—(1) Where there is no legal personal representative of a deceased mortgagor of freehold property it shall be sufficient, for the purposes of an action, for the foreclosure of the equity of redemption in, or for the sale of such property that the person beneficially entitled under the last will and testament, if any, of the deceased mortgagor, or under the provisions of this Act, to such property or the proceeds thereof be made defendant to such action, and it shall not be necessary that a legal personal representative of the deceased mortgagor be appointed or be made a defendant thereto unless it shall be otherwise ordered by the court in which the action is brought or by a judge thereof, but if during the pendency of such action, the equity of redemption devolves upon and becomes vested in a legal personal representative of the mortgagor he shall be made a party to the action.

Interpre-
tation.

(2) In subsection 1, "mortgagor" includes the assignee of a mortgagor and any person entitled to or interested in the equity of redemption. R.S.O. 1937, c. 163, s. 9.

Application
for order
allowing sale
free of dower
or curtesy.

10.—(1) Where the personal representative desires to sell any real property devolving upon him free from curtesy or dower he may apply to a judge of the Supreme Court, who may, in a summary way, and upon notice to be served personally unless the judge otherwise directs, order that the same shall be sold free from the right of the tenant by the curtesy or dowress, and in making such order regard shall be had to the interests of all parties.

Effect.

(2) If a sale free from such curtesy or dower is ordered all the right and interest of such tenant by the curtesy or dowress shall pass thereby, and no conveyance, or release thereof to the purchaser shall be required, and the purchaser, his heirs and assigns, shall hold the real property freed and discharged from the estate or interest of such tenant by the curtesy or dowress.

Payment in
satisfaction
of dower or
curtesy.

(3) The judge may direct the payment of such sum in gross out of the purchase money to the person entitled to curtesy or dower as he may deem, upon the principles applicable to life annuities, a reasonable satisfaction for such estate or interest, or may direct the payment to the person entitled of an annual sum, or of the income or interest to be derived from the purchase money or any part thereof, as he may deem just, and for that purpose may make such order

for the investment or other disposition of the purchase money or any part thereof as he may deem necessary. R.S.O. 1937, c. 163, s. 10.

11.—(1) The real and personal property of every man dying intestate and leaving a widow whether or not he leaves issue shall, where the net value of such real and personal property does not exceed \$5,000, belong to his widow absolutely and exclusively. Widow's preferential share where estate does not exceed \$5,000.

(2) Where the net value exceeds \$5,000 the widow shall be entitled to \$5,000 part thereof, absolutely and exclusively, and shall have charge thereon for such sum with interest thereon from the date of the death of the intestate at four per cent per annum until payment. Where estate exceeds \$5,000.

(3) The provision for the widow made by this section shall be in addition and without prejudice to her interest and share in the residue of the real and personal property of the intestate remaining after payment of such sum of \$5,000 and interest in the same way as if such residue had been the whole of the intestate's real and personal property, and this section had not been enacted. R.S.O. 1937, c. 163, s. 11 (1-3); 1941, c. 19, s. 1. Widow's share in remainder of estate.

(4) Where the estate consists in whole or in part of real property this section shall apply only if the widow elects under section 8 to take an interest in her husband's undisposed of real property in lieu of dower. Where estate consists of real property.

(5) In this section, "net value" means the value of the real and personal property after payment of the charges thereon and the debts, funeral expenses and expenses of administration, including succession duty. R.S.O. 1937, c. 163, s. 11 (4, 5). Interpretation.

12.—(1) Real property not disposed of, conveyed to, divided or distributed among the persons beneficially entitled thereto, under section 20, by the personal representative within three years after the death of the deceased shall, subject to *The Land Titles Act* in the case of land registered under that Act, and subject to subsections 6 and 7 of section 57 of *The Registry Act*, and subject as hereinafter provided, at the expiration of that period, whether probate or letters of administration have or have not been taken, be thenceforth vested in the persons beneficially entitled thereto under the will or upon the intestacy or their assigns without any conveyance by the personal representative unless such personal representative, if any, has registered, in the proper registry or land titles office, Vesting of real estate not disposed of within three years. Rev. Stat., cc. 197, 336.

a caution (Form 1) under his hand, and if such caution is so registered such real property or the part thereof mentioned therein shall not be so vested for three years from the time of registration of such caution or of the last caution if more than one are registered. R.S.O. 1937, c. 163, s. 12 (1); 1947, c. 101, s. 7 (1).

Verification. (2) The execution of every caution shall be verified by the affidavit of a subscribing witness in the manner prescribed by *The Registry Act* or *The Land Titles Act*, as the case may be. R.S.O. 1937, c. 163, s. 12 (2).

Effect. (3) Where the caution specifies certain parcels of land it shall be effectual as to those parcels only. R.S.O. 1937, c. 163, s. 12 (3); 1947, c. 101, s. 7 (2).

Withdrawal of caution. (4) The personal representative, before the expiration of the three years, may register a certificate (Form 2) withdrawing the caution, or withdrawing it as to any parcel of land specified in the certificate and, upon registration of the certificate, the property or the parcel specified shall be treated as if the caution had expired.

Verification. (5) The certificate of withdrawal shall be verified by an affidavit of a subscribing witness (Form 3).

Renewal of caution. (6) Before a caution expires it may be re-registered, and so on from time to time as long as the personal representative deems it necessary, and every caution shall continue in force for three years from the time of its registration or re-registration.

Real property not to vest until affidavit under Rev. Stat. c. 378 filed. (7) Notwithstanding anything in subsection 1, real property, devolving by reason of any will which has not been proved or registered or by reason of any intestacy in respect of which letters of administration have not been granted, shall not vest at the expiration of three years after the death of the deceased in the persons beneficially entitled thereto under such will or intestacy or their assigns as in that subsection provided until an affidavit similar to that required by section 12 of *The Succession Duty Act* has been filed either with the Treasurer of Ontario or with the registrar of the surrogate court of the county or district where the deceased had his fixed place of abode or where such real property or part thereof is situate. R.S.O. 1937, c. 163, s. 12 (4-7).

Ordinary rights of executors, etc., preserved. Rev. Stat., c. 400. **13.** Nothing in section 12 shall derogate from any right possessed by an executor or administrator with the will annexed under a will or under *The Trustee Act* or from any right possessed by a trustee under a will. R.S.O. 1937, c. 163, s. 13.

14.—(1) Where a personal representative has not registered a caution within the proper time after the death of the deceased, or has not re-registered a caution within the proper time, he may register or re-register the caution, as the case may be, provided he registers therewith, Registration of caution after three years from death of testator.

- (a) the affidavit of execution;
- (b) a further affidavit stating that he finds or believes that it is or may be necessary for him to sell the real property of the deceased or the part thereof mentioned in the caution, under his powers and in fulfilment of his duties, and as far as they are known to him, the names of all persons beneficially interested in the real property, and whether any, and if so which of them, are infants or mentally incompetent persons;
- (c) the consent in writing of every adult and of the Official Guardian on behalf of every infant and mentally incompetent person whose property or interest would be affected; and an affidavit verifying such consent; or
- (d) in the absence and in lieu of such consent an order of a judge of the Supreme Court or of the county or district court of the county or district wherein the property or some part thereof is situate, or the certificate of the Official Guardian authorizing the caution to be registered or re-registered, which order or certificate the judge or Official Guardian may make with or without notice on such evidence as satisfies him of the propriety of permitting the caution to be registered or re-registered, and the order or certificate to be registered shall not require verification and shall not be rendered null by any defect of form or otherwise.

(2) This section shall extend to cases where a grant of Application of probate of the will or of administration to the estate of the deceased may not have been made within the period after the death of the testator or intestate within which a caution is required to be registered. section.

(3) Where a caution is registered or re-registered under this section, it shall have the same effect as a caution registered within the proper time after the death of the deceased and of vesting or re-vesting, as the case may be, the real property of the deceased in his personal representative, save as to Effect of such registration.

persons who in the meantime have acquired rights for valuable consideration from or through any person beneficially entitled, and save also and subject to any equities of any non-consenting person beneficially entitled, or person claiming under him, for improvements made after the time within which the personal representative might, without any consent, order or certificate, have registered or re-registered a caution, if his real property is afterwards sold by the personal representative.

Signature
to caution.

(4) Where there are two or more personal representatives it shall be sufficient if any caution or the affidavit mentioned in clause *b* of subsection 1 is signed or made by one of such personal representatives. R.S.O. 1937, c. 163, s. 14.

Effect of
repealing
enactment.

15. Where a caution has been registered or re-registered under any enactment repealed and not re-enacted by this Act and is still in force, such caution shall have the same effect as if such enactment had not been repealed and may be registered in the manner provided by section 12. R.S.O. 1937, c. 163, s. 15.

Vacating
caution.

16. Any person beneficially entitled to any real property affected by the registration or re-registration of a caution may apply to a judge of the Supreme Court to vacate such registration or re-registration, and the judge, if satisfied that the vesting of any such real property in such person or of any property of the deceased in any other of the persons beneficially entitled ought not to be delayed, may order that such registration or re-registration be vacated as to such property, and every caution, the registration or re-registration of which is so vacated, shall thereafter cease to operate. R.S.O. 1937, c. 163, s. 16.

Land vesting
in two or
more
persons.

17. Where real property becomes vested under this Act in two or more persons beneficially entitled under this Act, they shall take as tenants in common in proportion to their respective rights, unless in the case of a devise they take otherwise under the will of the deceased. R.S.O. 1937, c. 163, s. 17.

Sales where
infants inter-
ested.

18.—(1) Where an infant is interested in real property which but for this Act would not devolve on the personal representative, no sale or conveyance shall be valid under this Act without the written approval of the Official Guardian, or, in the absence of such consent or approval, without an order of a judge of the Supreme Court.

Local guar-
dians.

(2) The Supreme Court may appoint the local judge of any county or district or the local master therein, as local

guardian of infants, in such county or district during the pleasure of the court, with authority to give such written approval instead of the Official Guardian, and the Official Guardian and local guardian shall be subject to such rules as the Supreme Court may make in regard to their authority and duties under this Act. R.S.O. 1937, c. 163, s. 18.

19. Except as herein otherwise provided the personal representative of a deceased person shall have power to dispose of and otherwise deal with the real property vested in him by virtue of this Act, with the like incidents, but subject to the like rights, equities and obligations, as if the same were personal property vested in him. R.S.O. 1937, c. 163, s. 19.

Power of personal representative over real property.

20.—(1) The powers of sale conferred by this Act on a personal representative may be exercised for the purpose not only of paying debts, but also of distributing or dividing the estate among the persons beneficially entitled thereto, whether there are or are not debts, and in no case shall it be necessary that the persons beneficially entitled shall concur in any such sale except where it is made for the purpose of distribution only. R.S.O. 1937, c. 163, s. 20 (1).

Powers of executors and administrators as to selling and conveying real estate.

(2) Except with the approval of the majority of the persons beneficially entitled thereto representing together not less than one-half of all the interests therein, including the Official Guardian acting on behalf of an infant or mentally incompetent person, no sale of any such real property made for the purpose of distribution only shall be valid as respects any person beneficially entitled thereto unless he concurs therein; but where a mentally incompetent person is beneficially entitled or where there are other persons beneficially entitled whose consent to the sale is not obtained by reason of their place of residence being unknown or where in the opinion of the Official Guardian it would be inconvenient to require the concurrence of such persons, he may, upon proof satisfactory to him that such sale is in the interest and to the advantage of the estate of such deceased person and the persons beneficially interested therein, approve such sale on behalf of such mentally incompetent person and non-concurring persons, and any such sale made with the written approval of the Official Guardian shall be valid and binding upon such mentally incompetent person and non-concurring persons, and for this purpose the Official Guardian shall have the same powers and duties as he has in the case of infants, and provided also that in any case the Supreme Court or a judge thereof may dispense with the concurrence of the persons beneficially entitled or any or either of them. R.S.O. 1937, c. 163, s. 20 (2); 1940, c. 28, s. 11.

Concurrence of heirs and devisees.

Powers of personal representative as to dividing estate among persons entitled.

(3) The personal representative shall also have power, with the concurrence of the adult persons beneficially entitled thereto, and with the written approval of the Official Guardian on behalf of infants or mentally incompetent persons, if any, so entitled, to convey, divide or distribute the estate of the deceased person or any part thereof among the persons beneficially entitled thereto according to their respective shares and interests therein.

Concurrence where person is a patient in a mental hospital.

Rev. Stat., c. 229.

(4) Where the person beneficially entitled is a patient in an institution within the meaning of *The Mental Hospitals Act*, and the Public Trustee is committee of his estate, the concurrence and approval required by subsections 2 and 3 may be given by the Public Trustee on behalf of such patient.

Distribution by order of Court within three years from death.

(5) Upon the application of the personal representative or of any person beneficially entitled the Supreme Court or a judge thereof may before the expiration of three years from the death of the deceased, direct the personal representative to divide or distribute the estate or any part thereof to or among the persons beneficially entitled according to their respective rights and interests therein.

Exercise of power of division without concurrence.

(6) The power of division conferred by subsection 3 may also be exercised, although all the persons beneficially interested do not concur, with the written approval of the Official Guardian, which may be given under the same conditions and with the like effect as in the case of a sale under subsection 2.

Sections 19 and 20 not to apply to administrators of personal estate only.

Provisions as to executor who has not obtained probate.

(7) Section 19 and this section shall not apply to an administrator where the letters of administration are limited to the personal property, exclusive of the real property, and shall not derogate from any right possessed by a personal representative independently of this Act, but an executor shall not exercise the powers conferred by this section until he has obtained probate of the will unless with the approval of the Supreme Court or a judge thereof.

Conveyance by personal representative without an order,

(8) The powers of a personal representative under subsection 2, 3 or 6 have heretofore been and shall hereafter be exercisable during the period of three years from the death of the deceased without an order of the Supreme Court or a judge thereof, provided that,

real property conveyed, etc., by personal representative to remain liable for debts;

(a) real property conveyed, divided or distributed by virtue of such powers to or among the persons beneficially entitled thereto, shall be deemed to have been and to be liable for the payment of the debts

of the deceased owner as if no conveyance, division or distribution had been made, even though it has subsequently during such three-year period been conveyed to a purchaser or purchasers in good faith and for value; but in the case of such purchaser or purchasers, such liability shall only continue after the expiry of such three-year period if some action or legal proceeding has been instituted by the creditor, his assignee or successor to enforce the claim and a *lis pendens* or a caution has, before such expiry been registered against the property; and that

- (b) although such liability has applied and shall apply ^{relief over;} as aforesaid, in respect of real property, so conveyed, divided or distributed, any such purchaser, in good faith and for value shall be deemed to have had and to have a right to relief over against the persons beneficially entitled, and where such conveyance, division or distribution was made by the personal representative with knowledge of the debt in respect of which claim is made, or without due advertisement for creditors, then against such personal representative; and that
- (c) upon the expiration of such three-year period where ^{where no} no *lis pendens* or caution has been registered, sub-^{*lis pendens*} or caution. section 2 of section 23 and section 25 shall apply as if such real property had become vested in the person beneficially entitled thereto under section 12. R.S.O. 1937, c. 163, s. 20 (3-8).

21. The acceptance by an adult of his share of the purchase money in the case of a sale by a personal representative ^{Effect of accepting share of purchase money.} which has been made without the written approval of the Official Guardian, where such approval is required, shall be a confirmation of the sale as to him. R.S.O. 1937, c. 163, s. 21.

22. A person purchasing in good faith and for value real property from the personal representative in manner authorized by this Act shall be entitled to hold the same freed and discharged from any debts or liabilities of the deceased owner, ^{Protection of bona fide purchasers from personal representatives.} except such as are specifically charged thereon otherwise than by his will, and from all claims of the persons beneficially entitled thereto, and shall not be bound to see to the application of the purchase money. R.S.O. 1937, c. 163, s. 22.

23.—(1) A person purchasing real property in good faith and for value from a person beneficially entitled, to whom ^{Protection of bona fide purchasers from beneficiary.} it has been conveyed by the personal representative, by

leave of the Supreme Court or a judge thereof, shall be entitled to hold the same freed and discharged from any debts and liabilities of the deceased owner, except such as are specifically charged thereon otherwise than by his will; but nothing in this section shall affect the rights of creditors as against the personal representative personally, or as against any person beneficially entitled to whom real property of a deceased owner has been conveyed by the personal representative.

Extent to which real property remains liable to debts and personal liability of beneficiary.

(2) Real property which becomes vested in the person beneficially entitled thereto under section 12 shall continue to be liable to answer the debts of the deceased owner so long as it remains vested in such person, or in any person claiming under him, not being a purchaser in good faith and for valuable consideration, as it would have been if it had remained vested in the personal representative, and in the event of a sale thereof in good faith and for value by such person beneficially entitled he shall be personally liable for such debts to the extent of the proceeds of such real property. R.S.O. 1937, c. 163, s. 23.

Powers of personal representative as to leasing and mortgaging.

24.—(1) The powers of a personal representative under this Act shall include,

- (a) power to lease from year to year while the real property remains vested in him;
- (b) power with the approval of the majority of the persons beneficially entitled thereto, representing together not less than one-half of all the interests therein including the Official Guardian acting on behalf of an infant or mentally incompetent person, to lease for a longer term;
- (c) power to mortgage for the payment of debts.

Approval of Official Guardian.

(2) The written approval of the Official Guardian to mortgaging shall be required where it would be required if the real property were being sold. R.S.O. 1937, c. 163, s. 24.

Rights of purchaser in good faith against claims of creditors.

25.—(1) A purchaser in good faith and for value of real property of a deceased owner which has become vested under section 12 in a person beneficially entitled thereto, shall be entitled to hold it freed and discharged from the claims of creditors of the deceased owner except such of them of which he had notice at the time of his purchase.

Liability of personal representative.

(2) Nothing in subsection 1 shall affect the right of the creditor against the personal representative personally where

he has permitted the real property to become vested in the person beneficially entitled to the prejudice of the creditor or against the person beneficially entitled. R.S.O. 1937, c. 163, s. 25.

26. An illegitimate child or relative shall not share under any of the provisions of this Act. R.S.O. 1937, c. 163, s. 26. Effect of illegitimacy.

27.—(1) If any child of an intestate has been advanced by him by settlement or portion of real or personal property or both, and the same has been so expressed by the intestate in writing, or so acknowledged in writing by the child, the value thereof shall be reckoned, for the purposes of this section only, as part of the real and personal property of the intestate to be distributed under this Act, and if the advancement is equal to or greater than the amount of the share which the child would be entitled to receive of the real and personal property of the deceased, as so reckoned, then the child and his descendants shall be excluded from any share in the real and personal property of the intestate. Cases of children advanced by settlement, etc.

(2) If the advancement is less than the share, the child and his descendants shall be entitled to so much only of the real and personal property as is sufficient to make all the shares of the children in the real and personal property and advancement to be equal, as nearly as can be estimated. If advancement is not equal.

(3) The value of any real or personal property so advanced shall be deemed to be that, if any, which has been acknowledged by the child by an instrument in writing; otherwise the value shall be estimated according to the value of the property when given. Value of property advanced, how estimated.

(4) The maintaining or educating, or the giving of money to a child without a view to a portion or settlement in life shall not be deemed an advancement within the meaning of this Act. R.S.O. 1937, c. 163, s. 27. Education, etc., not advancement.

28.—(1) The real and personal property, whether separate or otherwise, of a married woman in respect of which she dies intestate, shall be distributed as follows: one-third to her husband if she leaves issue, and one-half if she leaves no issue, and subject thereto shall devolve as if her husband had predeceased her. Distribution of property of married woman dying intestate.

(2) A husband who, if this Act had not been passed, would be entitled to an interest as tenant by the curtesy in real property of his wife, may, by deed or instrument in writing executed, and attested by at least one witness, and delivered Saving as to husband's interest in property of wife.

to the personal representative, if any, or if there is none, deposited in the office of the Registrar of the Supreme Court at Osgoode Hall, within six months after his wife's death, elect to take such interest in the real and personal property of his wife as he would have taken if this Act had not been passed, in which case the husband's interest therein shall be ascertained in all respects as if this Act had not been passed, and he shall be entitled to no further interest thereunder. R.S.O. 1937, c. 163, s. 28.

Distribution
of personal
estate.

29. Except as otherwise provided in this Act the personal property of a person dying intestate shall be distributed as follows: one-third to the wife of the intestate and all the residue by equal portions among the children of the intestate and such persons as legally represent the children in case any of them have died in his lifetime, and if there are no children or any legal representatives of them then two-thirds of the personal property shall be allotted to the wife, and the residue thereof shall be distributed equally to every of the next of kindred of the intestate who are of equal degree and those who legally represent them, and for the purpose of this section the father and the mother and the brothers and sisters of the intestate shall be deemed of equal degree; but there shall be no representations admitted among collaterals after brothers' and sisters' children, and if there is no wife then all such personal property shall be distributed equally among the children, and if there is no child then to the next of kindred in equal degree of or unto the intestate and their legal representatives and in no other manner; provided that if there is only one child or legal representatives of only one child the personal property of a person dying intestate shall be distributed as follows: one-half to the wife of the intestate and the other half to the child or the legal representatives of the child. R.S.O. 1937, c. 163, s. 29; 1941, c. 19, s. 2.

Children
share with
mother.

30. If, after the death of a father, any of his children die intestate without wife or children in the lifetime of the mother, every brother and sister and the representatives of them shall have an equal share with her, anything in section 29 to the contrary notwithstanding. R.S.O. 1937, c. 163, s. 30.

Distribution
not to be
made for
one year.

Rev. Stat.,
c. 400.

31. Subject to section 51 of *The Trustee Act*, no such distribution shall be made until after one year from the death of the intestate, and every person to whom in distribution a share shall be allotted shall, if any debt owing by the intestate shall be afterwards sued for and recovered or otherwise duly made to appear, refund and pay back to the personal representative his rateable part of that debt and of the costs of suit and charges of the personal representative by reason of

such debt out of the part or share so allotted to him, thereby to enable the personal representative to pay and satisfy such debt, and shall give bond with sufficient sureties that he will do so. R.S.O. 1937, c. 163, s. 31.

32. Rules regulating the practice and procedure to be followed in all proceedings under this Act, and, a tariff of fees to be allowed and paid to solicitors for services rendered in such proceedings, may be made by the Rules Committee, subject to the approval of the Lieutenant-Governor in Council. R.S.O. 1937, c. 163, s. 32; 1941, c. 19, s. 3.

33. The Lieutenant-Governor in Council may appoint a deputy *pro tempore* of the Official Guardian for the purposes of this Act who shall have all the powers of the Official Guardian for such purposes. R.S.O. 1937, c. 163, s. 33.

34. Affidavits may be used in proceedings taken under this Act. R.S.O. 1937, c. 163, s. 34.

FORM 1

(Section 12)

THE DEVOLUTION OF ESTATES ACT

I,....., executor of (or administrator with the will annexed of, or administrator of)....., who died on or about the.....day of....., 19...., certify that it may be necessary for me under my powers and in fulfilment of my duty as executor (or administrator) to sell the real property of the said.....or part thereof (or the caution may specify any particular part or parcel) and of this all persons concerned are hereby required to take notice.

R.S.O. 1937, c. 163, Form 1.

FORM 2

(Section 12)

THE DEVOLUTION OF ESTATES ACT

I,....., executor (or administrator) ofhereby withdraw the caution heretofore registered with respect to the real property of.....(or as the case may be).

R.S.O. 1937, c. 163, Form 2.

FORM 3

(Section 12)

THE DEVOLUTION OF ESTATES ACT

I,....., of, etc., make oath and say I am well acquainted with..... named in the above certificate; that I was present and did see the said certificate signed by the said.....; that I am a subscribing witness to the said certificate and I believe the said..... is the person who registered the caution referred to in the said certificate.

Sworn, etc.

R.S.O. 1937, c. 163, Form 3.

CHAPTER 104

The Disorderly Houses Act

1. In this Act,

Interpre-
tation.

- (a) "court" means the county or district court of the county or district in which a place is situate;
- (b) "place" includes house, building, office, room or other premises or any part thereof, whether enclosed or not, and whether used permanently or temporarily, and whether there is or is not exclusive right of user. 1942, c. 19, s. 1.

2.—(1) Upon the application by originating notice of motion of the Attorney-General or any other person the court may make an order closing any place with respect to which a conviction has been made within the preceding three months under section 229 or 235 of the *Criminal Code* (Canada) against its use for all or any purposes for any period not exceeding one year.

Closing
order.R.S.C.,
1927, c. 36.

(2) Notice of the motion shall be served upon the registered owner and the lessee, tenant or other occupant of such place if they can be found within the county or district, and if they cannot be so found service may be made by delivering a copy of the notice to an inmate of such place apparently not under 16 years of age, or in such other manner as the court may direct.

Service of
notice.

(3) A copy of the conviction under the hand of a magistrate or the clerk of the peace shall be *prima facie* evidence of the conviction and that the place therein described was the place with respect to which the conviction took place and of the date thereof. 1942, c. 19, s. 2, *amended*.

Proof of
conviction.

(4) An order made under this section shall not affect the rights of any person in the place described therein acquired after the making of such order without notice, in good faith and for valuable consideration. 1942, c. 19, s. 3 (2).

Rights of
innocent
purchaser.

3.—(1) Upon the application by originating notice of motion of the registered owner or other person having an

Suspensory
order.

interest in a place that is closed pursuant to an order made under section 2 and upon his establishing his good faith and his ignorance of the unlawful use to which the place was put and upon his furnishing a cash bond in the sum of \$1,000, or such greater sum as the court may determine to be deposited in court as security that the place will not be used during the term of the order for any purpose contrary to section 229 or 235 of the *Criminal Code* (Canada), the court may make an order suspending the operation of the order that closed the place.

R.S.C.,
1927, c. 36.

Service
of notice.

(2) Notice of the motion shall be served upon the Attorney-General and upon the Crown attorney of the county or district in which the place is situate. 1942, c. 19, s. 4 (1), *amended*.

Further
conviction.

(3) Upon the conviction of any person for an offence against either of the sections mentioned in subsection 1 with respect to such place after the giving of such security, the court may upon summary application order the forfeiture of the bond and the payment to the Crown of the money deposited thereunder, and such order shall direct that the order made under section 2 shall have full force and effect and may be registered in the same manner as the order made under section 2. 1942, c. 19, s. 4 (3).

Registration.

4. Any order made under section 2 or 3 may be registered in the registry office or land titles office in which the title to the place described in the order is recorded. 1942, c. 19, s. 3 (1); s. 4 (2), *amended*.

Limited
occupancy.

5.—(1) Upon the application by originating notice or motion of the registered owner or other person having an interest in a place that is closed pursuant to an order made under section 2 and upon his establishing that the place or its contents is or are likely to suffer damage by reason of the closing order, the court may make an order containing such conditions and limitations as the court may see fit to impose permitting the occupation of the place so far as may be necessary to prevent it or its contents from suffering damage.

Service
of notice.

(2) Notice of the motion shall be served upon the Attorney-General and upon the Crown attorney of the county or district in which the place is situate. 1942, c. 19, s. 5, *amended*.

No appeal.

6. There shall be no appeal from any order made under this Act. 1942, c. 19, s. 2, *amended*.

Rules of
practice.

7.—(1) The rules relating to practice and procedure in the county and district courts, except in so far as they are

varied or amended by the Lieutenant-Governor in Council, shall apply to proceedings under this Act.

(2) The Lieutenant-Governor in Council may make rules ^{Power to make rules.} prescribing,

(a) the practice and procedure under this Act;

(b) the forms to be used under this Act. 1942, c. 19, s. 6, *amended*.

8. Where an order has been made under section 2 and the place described therein is used in violation of the order, ^{Violation of closing order.}

(a) the registered owner of the place; and

(b) any person found in the place while it is being so used,

shall be deemed to have violated the order, unless in the case of a person mentioned in clause *b*, he was there for a lawful purpose, the proof whereof shall be upon him. 1942, c. 19, s. 7, *amended*.

9.—(1) Every person who violates any of the provisions ^{Penalty.} of this Act or of any order made hereunder, shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a term of not less than one month and not more than twelve months. 1942, c. 19, s. 8 (1, 3).

(2) Where a person convicted under subsection 1 is a ^{Where person a corporation.} corporation, it shall be liable to a penalty of not less than \$1,000 and not more than \$5,000. 1942, c. 19, s. 8 (2).

CHAPTER 105

The Ditches and Watercourses Act

1. This Act shall not affect the Acts relating to municipal or government drainage work. R.S.O. 1937, c. 350, s. 1. Certain Acts not affected.

2. In this Act,

Interpreta-
tion.

- (a) "clear days" means exclusive of the first and last days of any number of days prescribed;
- (b) "construction" means the original opening or making of a ditch by artificial means;
- (c) "county" includes district;
- (d) "county court" includes district court;
- (e) "ditch" means a drain opened or covered wholly or in part, and whether or not in the channel of a natural stream, creek or watercourse, and includes the work and material necessary for bridges, culverts, catch-basins and guards;
- (f) "engineer" means the person, or firm of persons, appointed by the municipal council as engineer to carry out the provisions of this Act, and any member of the firm may act as engineer provided his name is included in the by-law appointing the engineer;
- (g) "judge" means the senior, junior or acting judge of the county court of the county in which the lands, in respect of which the proceedings under this Act are taken, are situate;
- (h) "maintenance" means the preservation and keeping in repair of a ditch;
- (i) "non-resident" means a person who does not reside within the municipality in which his land, affected by proceedings under this Act, is situate;
- (j) "owner" or "owners" means the owner or possessor of any real or substantial interest in land, whether

held in fee simple, fee tail, for one or more life or lives or for a term of years not less than ten, and includes a lessee for a term of not less than five years with an option to purchase, the personal representative of a deceased owner, the committee of a mentally incompetent owner, the guardian of an infant owner, any person entitled to sell and convey the land, an agent under a general power of attorney authorizing the appointee to manage and lease the land, and a municipal corporation as regards any highway or other land under its jurisdiction. R.S.O. 1937, c. 350, s. 2.

Drainage of
lands for
mining or
manufac-
turing pur-
poses.

3.—(1) This Act shall apply to the drainage, amongst other land, of land for mining or manufacturing purposes, so as to enable the owner thereof to take proceedings thereunder, but in such case the engineer, in default of agreement, shall determine whether the land of other owners through which the ditch may pass shall be called upon to contribute to the construction of the ditch, and whether and to what extent such land may require drainage or will be benefitted thereby.

Lands of
other
owners.

(2) Where the engineer finds that the land of such other owners does not require drainage and that the ditch will not substantially benefit such land, he shall determine what compensation the owner of the land used for mining or manufacturing purposes shall make for any injury caused to such other owners by reason of the ditch passing through their land, but if such land will be substantially benefited by such drainage, he shall determine the extent of the benefit and shall deduct it from the amount of compensation so to be made, or shall take the proceedings provided for by subsection 3 of section 15, as the case may require. R.S.O. 1937, c. 350, s. 3.

Appoint-
ment of
engineer.

4.—(1) The council of every local municipality shall by by-law (Form 1) appoint a civil engineer, Ontario land surveyor or other competent person to be the engineer to carry out the provisions of this Act, and he shall be and continue an officer of the corporation until another engineer is appointed in his stead who may continue any work already undertaken, and in case another engineer is appointed the clerk of the municipality forthwith thereafter shall give notice of such appointment to the former engineer.

Fees of
clerk and
engineer.

(2) The council shall also by by-law provide for the payment to the clerk of the municipality of a reasonable remuneration for services performed by him in carrying out the provisions of this Act, and shall also by by-law fix the charges to be made by the engineer for services performed by him under this Act.

(3) Every engineer before entering upon his duties shall take and subscribe the following oath and shall file it with the clerk of the municipality:

In the matter of *The Ditches and Watercourses Act*.

I (*name in full*) of the.....of.....in the county (*or district*) of....., engineer (*or surveyor, or as the case may be*), make oath and say (*or do solemnly declare and affirm*), that I will to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against, any owner or owners perform the duties from time to time assigned to me in connection with any work under *The Ditches and Watercourses Act*, and make a true and just award thereon.

Sworn (*or affirmed*) before me
at the.....of.....
in the.....of.....this.....
day of....., 19.....

A Commissioner, etc. (*or Township Clerk, or J.P.*).

R.S.O. 1937, c. 350, s. 4.

5.—(1) Every ditch constructed under this Act shall be continued to a sufficient outlet, but shall not pass through or into more than seven original township lots, exclusive of any part of the ditch on or across a road allowance, unless the council of any municipality, upon the petition of a majority of the owners of all the land to be affected by the ditch, passes a resolution authorizing the extension thereof through or into any other lots within such municipality, or any adjoining municipality, and upon the passing of such resolution the proposed ditch may, subject to subsection 2, be extended in pursuance of such resolution.

(2) No ditch the whole cost of which, according to the estimate of the engineer or the agreement of the parties, will exceed \$2,500, shall be constructed under this Act. R.S.O. 1937, c. 350, s. 5.

6. The land, the owners of which may be made liable for the construction of a ditch under this Act, shall be that lying within 150 rods from the sides and point of commencement of the ditch. R.S.O. 1937, c. 350, s. 6.

7.—(1) The owner of land who requires the construction of a ditch thereon, before filing with the clerk of the municipality the requisition provided for by section 12, shall serve upon the owners or occupants of the other land to be affected a notice in writing (Form 2) signed by him and naming a day and hour and also a place convenient to the site of the ditch, at which all the owners are to meet and estimate the

cost of the ditch and agree, if possible, upon the apportionment of the work and supply of material for construction among the several owners according to their respective interests therein, and settle the proportions in which the ditch shall be maintained.

Service of notice.

(2) The notices shall be served not less than 12 clear days before the time named therein for meeting.

Application to set aside proceedings where requisitioner is not owner.

(3) The owner or occupant of any land to be affected who has been served with the notice mentioned in subsection 1 may within five clear days after service of the notice upon him apply to the judge to set aside the proceedings on the ground that the person who commenced them is not an owner within the meaning of this Act.

Presumption of ownership, when conclusive.

(4) If such application is not made, or, if made, is unsuccessful, the right of the person who commenced the proceedings to do so shall not thereafter be open to question, but shall be conclusively presumed. R.S.O. 1937, c. 350, s. 7.

Form of agreement, filing.

8. If an agreement is arrived at by the owners, it shall be reduced to writing (Form 3) and signed by all the owners, and shall within six days after the signing thereof be filed with the clerk of the municipality in which the land, the owner of which requires the ditch, is situate, but if the lands affected lie in two or more municipalities, the agreement shall be in as many parts as there are municipalities and one part shall be filed with the clerk of each municipality, and the agreement may be enforced in the same manner as an award of the engineer as hereinafter provided. R.S.O. 1937, c. 350, s. 8.

Informalities not to invalidate proceedings.

9. Want of strict compliance with sections 7 and 8 shall not avoid any proceedings taken or agreement made and entered into thereunder, or invalidate any subsequent proceedings taken thereunder, provided such notices have been duly served and the apportionment of the work and supply of material for construction among the several owners and settlement of the proportions in which the ditch shall be maintained is set forth in the agreement, and any such agreement may be amended so as to conform to this Act, with the consent in writing of the parties thereto, filed in the same manner as the agreement, or by order of the judge on an appeal under this Act. R.S.O. 1937, c. 350, s. 9.

Adjourning meeting for purpose of adding parties.

10. If at the meeting of owners it appears that the notice required by section 7 has not been duly served, the owners present at such meeting may adjourn the meeting to some subsequent day to enable the necessary notices to be served and

such adjourned meeting shall, if such notices have been served, be a sufficient compliance with this Act. R.S.O. 1937, c. 350, s. 10.

11. The head of the council of any municipality may sign the agreement and his signature shall be binding upon the corporation. R.S.O. 1937, c. 350, s. 11.

Signature on behalf of municipality.

12. If an agreement is not arrived at by the owners at the meeting or within five days thereafter, the owner requiring the ditch may file with the clerk of the municipality in which his land is situate a requisition (Form 4) naming therein all the several parcels of land that will be affected by the ditch and the respective owners thereof, and requesting that the engineer appoint a time and place in the locality of the proposed ditch, at which he will attend to make an examination as hereinafter provided. R.S.O. 1937, c. 350, s. 12.

Requisition for appointment by engineer when no agreement arrived at.

13.—(1) The clerk, upon receiving the requisition, shall give to the clerk of the municipality a copy of it by registered post to the engineer. R.S.O. 1937, c. 350, s. 13.

Notice to engineer.

(2) Upon the receipt of the copy by the engineer, he shall give to the clerk not less than 10 clear days notice in writing by registered letter addressed to him at his last known address of the time when and the place where he will attend in answer to the requisition.

Notice to clerk of appointment.

(3) On the receipt of the notice of the appointment from the engineer, the clerk shall file it with the requisition, and shall forthwith send, by registered post, a copy of the notice of appointment to the owner making the requisition who shall, at least four clear days before the time so appointed, serve upon the other owners named in the requisition a notice (Form 5) requiring their attendance at the time and place fixed by the engineer, and shall, after serving such notice, endorse on one copy thereof the time and manner of service and leave it with the engineer not later than the day before that fixed in the notice of appointment. R.S.O. 1937, c. 350, s. 13.

Notice to all parties.

14.—(1) Notices shall be served personally or by leaving them at the usual place of abode of the owner or occupant of a grown-up person residing there, and in case of non-residents, upon the agent of the owner or by registered post addressed to the owner at the post office nearest to his last known place of residence, and where his place of residence is not known, the notice may be served in such manner as the judge may direct.

Mode of serving notices.

Occupant
to notify
owner.

(2) An occupant, not the owner of the land, notified in the manner provided by this Act, shall immediately notify the owner thereof and, if he neglects to do so, shall be liable for all damages suffered by the owner by reason of such neglect. R.S.O. 1937, c. 350, s. 14.

Examina-
tion by
engineer.

15.—(1) The engineer shall attend at the time and place appointed by him and shall examine the locality, and if he deems it proper, or if requested by any of the owners, may examine the owners and their witnesses present and take their evidence, and may administer an oath to any owner or witness examined by him.

Adjourn-
ment to
serve other
owners.

(2) If upon examining the locality the engineer is of opinion that the land of owners upon whom notice has not been served will be affected by the ditch, he shall adjourn the proceedings to a day named and direct a notice of the adjourned meeting similar to that required by section 13 to be served on such owners by the owner making the requisition for the purpose of allowing such owners to be present and to be heard upon the examination and taking of evidence. R.S.O. 1937, c. 350, s. 15 (1, 2).

Further
proceed-
ings by
engineer
making
award.

(3) The engineer may adjourn his examination and the hearing of evidence from time to time and if he finds that the ditch is required he shall, within 60 days after his first attendance, make his award in writing (Form 6) specifying clearly the location, description and course of the ditch, its commencement and termination, apportioning the work and the furnishing of material among the lands affected and the owners thereof according to his estimate of their respective interests in the ditch, fixing the time for performance by the respective owners, apportioning the maintenance of the ditch among all or any of the owners so that as far as practicable and equitable each owner shall maintain the portion on his own land, and stating the amount of his fees and the other charges and by whom they shall be paid. R.S.O. 1937, c. 350, s. 15 (3); 1949, c. 28, s. 1 (1).

Certificate
of engineer
as to fees.

(4) If the engineer finds that the ditch is not required or is impracticable or cannot be constructed under this Act, or if the owner filing the requisition neglects or refuses to serve notices as directed by the engineer under subsection 2, the engineer within the time prescribed in subsection 3 shall file with the clerk a certificate stating that he refuses to make an award, his reasons for such refusal, the amount of his fees and the other charges and by whom they shall be paid. R.S.O. 1937, c. 350, s. 15 (4); 1949, c. 28, s. 1 (2).

Notice of
certificate
of refusal.

(5) Where the engineer files a certificate of refusal under subsection 4, the clerk shall notify the owner who made the

requisition and the other owners named in the requisition, by registered letter or personal service, of the filing of the certificate of refusal, and shall keep a record of the persons to whom he sent notices, the addresses to which the notices were sent, and the date upon which the notices were deposited in the post office or personally served. 1949, c. 28, s. 1 (3).

(6) The period prescribed for the engineer to make his award shall be exclusive of the time required to obtain the approval of the works or the specifications or plans thereof by the Ontario Municipal Board or the Board of Transport Commissioners for Canada, where such approval is necessary. Time for making award not to include certain periods.

(7) Where a ditch or any part thereof is to be covered, the engineer shall in his award specify the kind of material to be used in the covered part. Material for covering ditch.

(8) The engineer and his assistants, when engaged in the performance of their duties under this Act during or after the examination of the locality, may pass over, measure along, ascertain the bearings of any line, plant stakes, take levels and do such work as they deem necessary for the performance of the said work on the land of any person, doing no unnecessary damage thereto, without being guilty of trespass or otherwise incurring liability. Powers of engineer.

(9) The engineer in making his survey shall establish sufficient bench marks or permanent levels by which a ditch may be governed, and shall also in his award sufficiently record the descriptions, locations and elevations of every bench mark or permanent level by which a ditch is to be governed, and whether such bench marks or permanent levels were established by him or by some other engineer. Bench marks.

(10) Any person who interferes with or obstructs the engineer or his assistants in the exercise of the powers conferred by subsection 8 or interferes with, removes or destroys any bench mark or permanent level mark established under subsection 9 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. R.S.O. 1937, c. 350, s. 15 (5-9). Penalty for interference with work or bench marks of engineer.

16. Where rock cutting or blasting is necessary, if the engineer is of opinion that it can be done more conveniently or less expensively by letting the work by tender or otherwise by public competition than if it were done by the owners, he may by his award direct that it be so let, and in that case he shall by the award fix and determine the part or proportion of Rock cutting or blasting.

the cost of the work which each of the owners is to pay. R.S.O. 1937, c. 350, s. 16.

Engineer
may relieve
person not
benefited.

17. If the engineer is of the opinion that the land of any owner will not be sufficiently affected by the construction of the ditch to make him liable to perform any part thereof, and that it is or is not necessary, as the case may be, to construct the ditch across or into his land, he may by his award relieve such owner from performing any part of the work of the ditch and may place its construction on the other owners, and any person carrying out the provisions of the award upon the land of the owner so relieved shall not be a trespasser if he causes no unnecessary damage, and he shall replace any fences opened or removed by him. R.S.O. 1937, c. 350, s. 17.

Award,
plan, etc.

18.—(1) The award and any plan, profile and specifications of the ditch shall be in as many parts as there are municipalities in which land affected by the award is situate.

Filing
award, etc.

(2) The engineer forthwith after making the award shall file one part thereof and of any plan, profile or specifications with the clerk of each of the municipalities, and the same may be given in evidence in any legal proceedings by a copy certified by the clerk.

Notice to
persons
affected.

(3) The clerk, upon the filing of the award, shall notify each of the persons affected thereby within the municipality of which he is clerk, by registered letter or personal service, of the filing of the award and the part of the work to be done and material to be furnished by the persons so notified as shown by the award, and shall keep a book in which he shall record the names of the persons to whom he sent notices, the addresses to which they were sent, and the date upon which they were deposited in the post office or personally served. R.S.O. 1937, c. 350, s. 18.

Filing of
documents.

(4) The clerk shall index and carefully file in a safe place all agreements and awards made under this Act. 1949, c. 28, s. 2.

Powers of
engineer
of municip-
ality in
which pro-
ceedings
com-
menced.

19. If the land affected by the ditch is situate in two or more municipalities, the engineer of the municipality in which proceedings were commenced may continue the ditch into or through so much of the land in any other municipality as may be found necessary, but within the limit of length hereinbefore provided, and all proceedings authorized by this Act shall be taken and carried on in the municipality in which the proceedings were commenced. R.S.O. 1937, c. 350, s. 19.

Appeals
from award
to county
judge.

20.—(1) Any owner affected by the award, within 15 clear days from the date of the mailing or service of the last of the

notices of the filing of the award, may appeal therefrom to the judge.

(2) The appellant shall serve upon the clerk of the municipality in which the proceedings were commenced a notice in writing of his intention to appeal, shortly setting forth the grounds of appeal. Notice of appeal.

(3) The clerk, after the expiration of the time for appeal, shall transmit by registered post or deliver a copy of the notice or notices of appeal and a certified copy of the award and the plans and specifications to the judge, who shall forthwith, upon the receipt thereof, notify the clerk of the time he appoints for the hearing of the appeal, and shall fix the place of hearing at the town hall or other place of meeting of the council of the municipality in which the proceedings were commenced, unless for greater convenience and to save expense he fixes some other place. Clerk to notify judge and judge to fix time and place for hearing.

(4) The judge may order such sum to be paid by the appellant to the clerk as will be a sufficient indemnity against the costs of the appeal. Indemnity against costs of appeal.

(5) The clerk upon receiving notice from the judge shall forthwith notify the engineer and all parties interested in the manner provided for the service of notices. Notice to engineer and all parties.

(6) An appellant may have the land inspected by any other engineer or person who, for such purposes, may enter upon the land, but shall do no unnecessary damage. Inspection of premises by another engineer.

(7) The clerk to whom notice of appeal is given shall be the clerk of the court and shall record the proceedings. Clerk of the court.

(8) It shall be the duty of the judge to hear and determine all the appeals within two months after receiving notice thereof from the clerk, or within such further period as, on hearing the parties, he may deem necessary, as provided by subsection 9, but no proceedings under this Act shall be rendered invalid by the failure of the judge to hear and determine the appeal within such period. Judge to hear and determine within two months.

(9) The judge may examine parties and witnesses on oath and may inspect the land and may require the engineer to accompany him, and may alter or affirm the award and correct any errors therein. Powers of judge on appeal.

(10) If the award is affirmed or altered, the costs of the appeal shall be in the discretion of the judge, but, if set aside, Costs of appeal.

he may order payment of the costs mentioned in the award, and the costs of appeal by the parties to the award, or any of them, as to him may seem just, and may fix the amount of such costs.

Depriving
engineer of
fees when
guilty of
misconduct.

(11) If the judge finds that the engineer has knowingly and wilfully favoured any one or more of the parties to the proceedings, or has neglected his duty, he may direct that the engineer be deprived of all fees in respect to the award, or of such part thereof as the judge may deem proper, but this shall not deprive any party to the proceedings of any remedy he may otherwise have against the engineer.

Fees and
disburse-
ments of
judge.

(12) The judge shall be entitled to \$5 a day and necessary travelling expenses for holding a court for the trial of appeals, including the inspection of the land, which charge shall be part of the costs of the appeal.

Enforce-
ment of
award as
amended.

(13) The order of the judge shall be filed with the clerk, and the award as altered or affirmed, and the order of the judge as to costs, may be enforced in the same manner as the award of the engineer, and the time for the performance of the award shall be computed from the date of the judgment on the appeal.

Notice to
other clerks
and owners.

(14) The clerk shall immediately after the hearing send by registered post to the clerk of any other municipality in which land affected by the ditch is situate a certified copy of the changes, if any, made in the award by the judge which shall be filed with the award, and each clerk shall forthwith, by registered letter, notify every owner within his municipality of any change made in the work and material assigned to such owner.

Notice of
setting aside.

(15) If the award is set aside, the clerk shall forthwith notify the fact to the clerk of every other municipality in which land affected by the award is situate. R.S.O. 1937, c. 350, s. 20.

Appeal from
refusal of
award.

21.—(1) Where the engineer refuses to make an award because the ditch is not required or is impracticable or cannot be constructed under this Act, any owner affected by the refusal, within 15 clear days from the date of the mailing or service of the last notice under subsection 5 of section 15, may appeal therefrom to the judge.

Judgment
on appeal.

(2) Upon the hearing of the appeal, the judge may dismiss the appeal or may allow the appeal and direct the engineer to make an award in the manner provided in subsection 3 of section 15.

(3) Except where inconsistent with this section, sections 20, 22, 23, 24 and 25 shall apply to an appeal under this section, and for the purposes of those sections the certificate of refusal of the engineer shall be deemed to be an award. Application of sections 20, 22-25.

(4) Where the judge dismisses the appeal, there shall be no appeal to the drainage referee from his judgment. 1949, Judgment dismissing appeal final.
c. 28, s. 3, *part.*

22. No award shall be set aside for want of form only or for want of strict compliance with the provisions of this Act, and the judge, instead of setting aside the award, may amend it or the other proceedings or may refer the award back to the engineer, with such directions as the judge may deem necessary. Judge may amend or refer back award.
R.S.O. 1937, c. 350, s. 21.

23. An award shall, after the time limited for an appeal to the judge and after the determination of appeals, if any, by him where the award is affirmed, be valid and binding to all intents and purposes notwithstanding any defect in form or substance either in the award or in any of the proceedings prior to the making of the award. When award to be binding notwithstanding defects.
R.S.O. 1937, c. 350, s. 22.

24. On an appeal from an award, the judge shall possess all such powers for compelling the attendance of and for the examination on oath of all parties and other persons that belong to or might be exercised by him in the county court. Powers of judge as to taking evidence.
R.S.O. 1937, c. 350, s. 23.

25.—(1) Upon an appeal, the clerk shall issue summonses to witnesses upon the application of any party to the proceedings or upon an order of the judge for the attendance of any person as a witness before him. Clerk may issue summonses to witness.

(2) The summons shall have the same force and effect as a subpoena issued out of the county court. Effect of summons.

(3) The fees to be allowed to witnesses shall be upon the scale of fees allowed to witnesses in an action in the division court. Witness fees.
R.S.O. 1937, c. 350, s. 24.

26.—(1) Subject to section 27, the corporation of the municipality in which the proceedings were commenced shall within 10 days after the time for appealing or after the determination of the appeals, as the case may be, pay to the engineer and to the judge and all other persons the fees, charges and costs awarded or adjudged to be paid to them, and as respects the portion thereof payable by the owners of land situate within the municipality the same shall be forthwith repaid by the owners to the treasurer of the municipality. Payment of costs by municipality.

Charge of
same on
land of
owner.

(2) If default is made by any owner in repaying the amount for which he is liable, the same, with seven per cent added thereto, shall form a charge on his land and may be collected in like manner as municipal taxes, and the council shall cause the same to be placed on the collector's roll and to be so collected.

Where lands
are in more
than one
municipality.

(3) Where the land affected by the award is situate within two or more municipalities, the corporation of each of the other municipalities shall forthwith, after notice in writing, repay to the corporation of the municipality in which the proceedings were commenced the sums for which the owners of land within its limits are liable, and the provisions of subsection 2 shall apply in respect of the sums so repaid. R.S.O. 1937, c. 350, s. 25.

Letting rock
cutting or
blasting by
tender.

27. Where the award provides for rock cutting or blasting, the engineer shall let such work by tender or otherwise by public competition, and upon completion of it shall certify—(Form 7) to the clerk of the municipality in which the proceedings were commenced the cost thereof, including his fees and the expenses, and the like proceedings shall be had and the like duties be performed in respect thereof as are provided for by sections 18 and 26, which shall apply *mutatis mutandis*. R.S.O. 1937, c. 350, s. 26.

Letting
work on
non-com-
pliance with
award.

28.—(1) At the expiration of the time limited by the award for the completion of the ditch, the engineer shall inspect the same, and if he finds the ditch or any part thereof not completed in accordance with the award, he may let the work and supply of material to the lowest bidder, who shall furnish security to the corporation, to be approved by the engineer, for the due performance thereof within a time to be fixed by the engineer, but the letting shall not take place,

(a) until notice in writing of the intended letting has been posted up for four clear days in at least three conspicuous places in the neighbourhood of the place at which the work is to be done; and

(b) until after four days from the sending of copies of the notice by registered post to the last known addresses of the persons interested in the award who do not reside in the municipality or municipalities, as the case may be.

Extension
of time for
compliance.

(2) If the engineer is satisfied of the good faith of any person failing in the performance of the award, and there is good reason for the non-performance thereof, he may, in his

discretion, and upon payment of his fees and charges, extend the time for performance.

(3) Any owner in default who, after proceedings are begun to let the same, supplies the material and does the work, shall be liable for the fees and expenses occasioned by his default, and the same shall form a charge on his land, and, if not paid by him after notice, the council shall pay the same on the certificate of the engineer, and shall cause the amount, with seven per cent added thereto, to be placed on the collector's roll against the land of the person in default, to be collected in the same manner as municipal taxes.

Liability of person in default of doing work after proceedings begun.

(4) The engineer may let the work and supply of material directed by the agreement or award, or any part thereof, a second time or oftener if it becomes necessary in order to secure its performance and completion. R.S.O. 1937, c. 350, s. 27.

Power to re-let.

29.—(1) The engineer, within 10 days after receipt of notice in writing of the supplying of material and completion of the work let, as mentioned in section 28, shall inspect the same, and if he finds the material furnished and the work completed, shall so certify in writing (Form 8) to the clerk of the municipality by which he was appointed.

Certificates of engineer upon completion of work let.

(2) Where lands situate within two or more municipalities are affected by the certificate of the engineer, the certificate shall be in as many parts as there are municipalities and one of such parts shall be transmitted by the engineer to the clerk of each of them.

Where lands affected in more municipalities than one.

(3) The provisions of section 26 shall apply to the amount payable to the contractor and the fees and charges of the engineer as so certified. R.S.O. 1937, c. 350, s. 28.

Costs, fees and charges.

30. If an owner during or after the construction of a ditch desires to avail himself thereof for the purpose of draining land other than that contemplated by the original proceedings, he may avail himself of the provisions of this Act as if he were an owner requiring the construction of a ditch, but no owner shall make use of a ditch after construction unless under an agreement or award pursuant to this Act. R.S.O. 1937, c. 350, s. 29.

Use of ditch for other purposes.

31. This Act shall apply to the deepening, widening, covering, improving or extending of any ditch already or hereafter constructed and to the construction of a tile drain under or adjoining an open ditch as ancillary thereto. R.S.O. 1937, c. 350, s. 30.

Application of Act.

Mainten-
ance of
ditches
heretofore
or hereafter
constructed.

32. A ditch, whether covered or open, constructed, or any creek or watercourse that has been deepened or widened, under the provisions of any former Act respecting ditches and watercourses, or constructed, deepened, widened or covered under this Act, shall be maintained by the respective owners in such proportion as is provided in the original or any subsequent agreement or award, and the manner of enforcing the same shall be as hereinafter provided. R.S.O. 1937, c. 350, s. 31.

Enforcing
mainten-
ance.

33.—(1) If an owner whose duty it is to maintain any portion of a ditch neglects to maintain the same in the manner provided by the agreement or award, any of the owners, parties to the agreement or award, whose land is affected by the ditch, may, in writing, notify the owner making default to have his portion put in repair within 30 days from the receipt of such notice, and if the repairs are not made and completed within the 30 days the owner giving the notice may notify the engineer in writing to inspect the portion complained of.

Pro-
ceedings.

(2) The inspection of the engineer and the proceedings for doing and completing the repairs required and enforcing payment of costs, fees and charges shall be as provided in the case of the non-completion of the construction of a ditch, but if the engineer finds that there is no cause for complaint, he shall so certify, with the amount of his fees and charges, to the owner who complained and also to the clerk of the municipality, and such owner shall pay the fees and charges of the engineer, and if not forthwith paid, the same shall be charged and collected in the same manner as is provided for in the case of other certificates of the engineer. R.S.O. 1937, c. 350, s. 32.

Proceed-
ings for
deepening,
etc., by
owner or
person
interested.

34. An owner interested in or affected by a ditch heretofore or hereafter constructed which has not been constructed under any of the Acts referred to in section 32 or under this Act, or under any Act relating to the construction of drainage work by local assessment, may take proceedings for the deepening, widening, extending, covering or repairing of such ditch in the same manner as for the construction of a ditch under this Act, but the extent of the work, the cost thereof and the assessment therefor shall not exceed the limitations imposed by sections 5 and 6. R.S.O. 1937, c. 350, s. 33.

Recon-
sideration of
agreement
or award.

35.—(1) Subject to subsection 2, an owner, party to the agreement or award, whose land is affected by a ditch, whether constructed under this Act or any other Act respecting ditches and watercourses, at any time after the expiration of two years, or in the case of a covered drain of one year from the completion thereof, may take proceedings for the reconsidera-

tion of the agreement or award under which it was constructed and the proceedings shall be the same as are hereinbefore provided in the case of the construction of a ditch.

(2) If a ditch, after its construction, proves insufficient for the purposes for which it was constructed so as to cause an overflow of water upon any land along the ditch and damage to the same, any owner, party to the agreement or award, may at any time after the expiration of six months from the completion of the ditch take proceedings for the reconsideration of the agreement or award under which such ditch was constructed for the purpose of remedying the defect in that particular respect. R.S.O. 1937, c. 350, s. 34.

Where ditch after construction proves insufficient.

36.—(1) Where a parcel of land is charged with maintenance in respect of a ditch constructed pursuant to an agreement or award, and one or more parts of the parcel is sold, the clerk of the municipality in which the parcel is situate shall direct the municipal engineer in writing to apportion the maintenance charged against the parcel among the parts into which the parcel is divided.

Subdivision of land charged with maintenance.

(2) The clerk shall send a copy of the direction by registered post to the owners of the parts into which the parcel is divided.

Notice to owners.

(3) The engineer shall make the apportionment in writing and shall file it in the same manner as an award, and the apportionment shall thereupon be binding upon the parts into which the parcel is divided and the owners thereof. 1949, c. 28, s. 3, *part*.

Apportionment of maintenance.

37. An engineer who wilfully neglects to make any inspection provided for by this Act for 30 days after he has received written notice to inspect, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$10, and every such penalty, when recovered, shall be paid over to the treasurer of the municipality in which the inspection should have been made. R.S.O. 1937, c. 350, s. 35.

Penalty for engineer failing to inspect.

38. No action, suit or other proceedings shall lie or be taken for a mandamus or other order to enforce or compel the performance of an agreement or award or the completion of a ditch, but the same shall be enforced in the manner provided for in this Act. R.S.O. 1937, c. 350, s. 36.

Actions for mandamus, etc., not to lie.

39. It shall be the duty of the council of every municipality to keep printed copies of all the forms required by this Act and to supply the clerk with proper filing equipment for the

Forms to be supplied by municipality.

safekeeping of all agreements and awards made under this Act. R.S.O. 1937, c. 350, s. 37; 1949, c. 28, s. 4.

Appeals to referee.

40.—(1) Any owner affected by an award under this Act may appeal from the judgment of the judge to the referee appointed under the drainage laws of Ontario, whose judgment shall be final and conclusive, but no such appeal shall lie unless leave is given by the referee upon an application made to him within 15 days from the date of the judgment.

Application of Rev. Stat., c. 246.

(2) For the purpose of giving or refusing leave to appeal or hearing and disposing of an appeal after leave given, the referee shall have similar powers to those conferred upon him by *The Municipal Drainage Act*, and the rules of practice under that Act shall apply so far as applicable to appeals to the referee under this Act, and upon leave to appeal being given, proceedings upon the award or upon the judgment of the judge shall be stayed unless otherwise ordered by the referee. R.S.O. 1937, c. 350, s. 38.

FORM 1

(Section 4 (1))

BY-LAW FOR APPOINTMENT OF ENGINEER

A by-law for the appointment of an engineer under *The Ditches and Watercourses Act*

Finally passed....., 19....
The council of the.....of.....in the
county (or district) of.....enacts as follows:

1. Pursuant to *The Ditches and Watercourses Act*,
(name of person) of the.....of.....
in the.....of....., is appointed
engineer for this municipality to carry out the provisions of the said Act.

2. The engineer shall be paid the following fees for services rendered under the Act (or as the case may be).

Reeve.

Clerk.

[L.S.]

FORM 2

(Section 7 (1))

NOTICE TO OWNERS OF LAND AFFECTED BY PROPOSED DITCH

To.....
Sir,

I am the owner of lot (*describing it*) and as such owner I require a ditch to be constructed under *The Ditches and Watercourses Act*, to drain it (or if for reconsideration of agreement or award or to deepen, widen, cover or otherwise improve the ditch, state the object). The following other land will be affected: (*here set out the other parcels of land, lot, concession or street and township or other local municipality, and the name of the owner in each case; also each road and the municipal corporation controlling it*).

I hereby request you, as owner of (*state his land*), to attend at (*state place of meeting*), on.....the.....day of....., 19....., at the hour of.....o'clock in the.....noon, with the object of agreeing on the respective portions of the work and materials to be done and furnished by the several owners interested and the several portions of the ditch to be maintained by them.

Dated.....day of....., 19.....

Yours, etc.,

(Name of Owner)

R.S.O. 1937, c. 350, Form 2.

FORM 3

(Section 8)

AGREEMENT BY OWNERS

Whereas it is found necessary that a ditch should be constructed (or deepened, or widened, or otherwise improved) under the provisions of *The Ditches and Watercourses Act*, for the draining of the following land (and roads if any): (*here describe each parcel and give name of owner as in the notice, including the applicant's own land, stating lot, concession or street, and township or other local municipality, and also roads and by whom controlled*).

Therefore we the owners within the meaning of the said Act of the said lands (*and if roads and*.....the reeve of the said municipality on behalf of the council thereof) do agree each with the other as follows: That a ditch be constructed (*or as the case may be*) and we do hereby estimate the cost thereof at the sum of \$....., and the ditch shall be of the following description: (*here give point of commencement, course and termination, its depth, bottom and top width and other particulars as agreed upon, also any bridges, culverts or catch-basins, etc., required*). I,....., owner of (*describe his land*) agree to (*here give portion of work to be done, or material to be supplied*), and to complete the performance thereof on or before the.....day of....., 19.....; I,....., owner of, etc. (*as above to the end of the ditch*).

That the ditch when constructed shall be maintained as follows: I,....., owner of (*describe his lands*) agree to maintain the portion of the ditch from (*fix the point of commencement*) to (*fix the point of termination of his portion*); I,....., owner of (*describe his land*) agree to maintain, etc., (*as above to the end of the ditch*).

Dated.....day of....., 19.....

Signed in the presence of.....
(Signature of parties)

R.S.O. 1937, c. 350, Form 3.

FORM 4

(Section 12)

REQUISITION FOR EXAMINATION BY ENGINEER

To (name of clerk),

Clerk of.....
(P.O. Address)

Sir,—I am, within the meaning of *The Ditches and Watercourses Act*, the owner of lot (*describing it*) and I require the construction (*or* deepening, widening, covering or otherwise improving, *as the case may be*), of a ditch under the provisions of the said Act, and the following land and roads will be affected: (*here describe each parcel to be affected as in the notice for the meeting to agree and state the name of the owner thereof*), and the said owners having met and failed to agree in regard to the same, I request that the engineer appointed by the municipality be requested to appoint a time and place at which he will attend and examine the premises, hear any evidence of the parties and their witnesses, and make his award.

Dated.....day of....., 19.....

.....
(Signature of the party or parties)

R.S.O. 1937, c. 350, Form 4.

FORM 5

(Section 13 (3))

NOTICE OF APPOINTMENT FOR EXAMINATION BY ENGINEER

To (name of owner)
(P.O. address)

Sir,—You are hereby notified that the engineer appointed by the municipality for the purpose of *The Ditches and Watercourses Act*, has, in answer to my requisition, fixed the hour of.....o'clock in thenoon of.....the.....day of....., 19...., to attend at (*name the place appointed*), and to examine the premises and site of the ditch required by me to be constructed (*or as the case may be*), under the provisions of the said Act, and you, as the owner of land affected, are required to attend with any witnesses that you may desire to have heard, at the said time and place.

Dated.....day of....., 19.....

Yours, etc.,

.....
(Signature of applicant)

R.S.O. 1937, c. 350, Form 5.

FORM 6

(Section 15 (3))

AWARD OF ENGINEER

I,, the engineer appointed by the council of the municipality of the of in the county (or district) of, under the provisions of *The Ditches and Watercourses Act*, having been required so to do by the requisition of, owner of lot, (*describe as in requisition*), filed with the clerk of the said municipality and representing that he requires certain work to be done under the provisions of the said Act for the draining of the said land, and that the following other land (and roads) will be affected:—(*here set out the other parcels of land or roads affected as in the requisition*), did attend at the time and place named in my notice in answer to said requisition, and having examined the locality (and the parties and their witnesses if such be the case) find that the ditch (or the deepening, widening, covering or otherwise improving of a ditch) is required. The location, description and course of the ditch, and its point of commencement and termination are as follows:

(*Here describe the ditch as to all above particulars.*)

The said works will affect the following land:—(*here set forth the other land and the respective owners*). I do, therefore, award and apportion the work and the furnishing of material among the land affected and the owners thereof according to my estimate of their respective interests in the said works as follows:—

1. (*Name of owner and description of his land*) shall make and complete (*here fix the point of commencement and ending of his portion*) and shall furnish the material (*state what material*), all of which, according to my estimate, will amount in value to \$., and I fix the time for the completion of such work and providing such material on the..... day of, 19....., at furthest.

2. (*Name of owner and description of his land, and so on as above to the end.*)

I do further award and apportion the maintenance of the ditch as follows:—

1. (*Name of owner and description of his land*) shall maintain (*here fix the points of commencement and ending of his portion*).

2. (*Name of owner, etc., as above.*)

(*When rock drilling or blasting is directed add particulars required by section 16.*)

The fees and the other charges attendant upon and for making this award are (*here give fees and other charges, including clerk's fees in detail*), amounting in all to \$., which shall be borne and paid as follows:—(*state by whom and by what land respectively*).

Dated.....day of....., 19.....

Witness,

.....
(*Signature of Engineer*)

R.S.O. 1937, c. 350, Form 6.

FORM 7

(Section 27)

CERTIFICATE OF ENGINEER

To.....
Clerk of the.....of.....

I hereby certify that the rock cutting and blasting provided for by my award made under *The Ditches and Watercourses Act*, and dated the.....day of....., 19....., was let to..... for the sum of \$....., and he has completed the work and is entitled to be paid that sum, and that my fees and charges (*stating items*) are \$.....

Dated.....day of....., 19.....

.....
(*Signature of Engineer*)

Engineer for
.....

R.S.O. 1937, c. 350, Form 7.

FORM 8

(Section 29 (1))

CERTIFICATE OF ENGINEER

To.....
Clerk of the.....of.....

I hereby certify that.....has furnished the material and completed the work (*as the case may be*) which under my award made under *The Ditches and Watercourses Act*, and dated the.....day of....., 19....., owner of lot number (*describe his land giving township or otherwise*), was adjudged to perform, and having failed in the performance of the same it was subsequently let by me to the said..... for the sum of \$....., and as he has now completed the performance thereof he is entitled to be paid the said amount.

I further certify that my fees and charges for my services rendered necessary by reason of such failure to perform are (*stating items*) \$....., and said amount payable to the said contractor and the said fees and charges are chargeable on (*describe property to be charged therewith*) under the said Act, unless forthwith paid.

Dated.....day of....., 19.....

Witness,

.....
(*Signature of Engineer*)

Engineer for
.....

R.S.O. 1937, c. 350, Form 8.

CHAPTER 106

The Division Courts Act**1.—(1)** In this Act,Interpre-
tation.

- (a) “action” includes a proceeding, suit, matter and cause;
- (b) “county” includes a provisional county and provisional judicial district;
- (c) “county court” includes district court;
- (d) “defendant” includes primary debtor;
- (e) “debt or money demand summons” means a summons instituting an action for the recovery of a debt or money demand;
- (f) “division” means the territory in and for which a division court is established;
- (g) “Inspector” means Inspector of Legal Offices;
- (h) “judge” means judge or junior judge of the county court of the county in which the division for which a division court is constituted is situate;
- (i) “judgment creditor” includes a creditor who has obtained judgment against a garnishee;
- (j) “judgment debtor” includes a garnishee against whom judgment has been recovered;
- (k) “plaintiff” includes primary creditor;
- (l) “prescribed form” means the form prescribed in the rules;
- (m) “rules” means rules and regulations made under this Act.

(2) Where in this Act any power or authority is conferred or any duty is imposed upon the judge of the county court it

Exclusive
powers of
county
judge.

shall be exercised or performed by him and not by a junior judge. 1950, c. 16, s. 1.

Territorial
application
of Part I;

2.—(1) Part I, except where otherwise therein provided, shall apply to every county and provisional judicial district.

Part II.

(2) Part II shall be applicable only to provisional judicial districts. 1950, c. 16, s. 2.

PART I

APPLICABLE TO COUNTIES AND DISTRICTS

COURTS

Courts
continued.

3. Subject to the provisions of this Act and the rules, the division courts existing at the time this Act takes effect shall continue. 1950, c. 16, s. 3.

Designation
of court.

4.—(1) The court in each division shall be called "The First (*or as the case may be*) Division Court of the County of.....".

May include
adjacent
territory.

(2) The limits of a division court of any county may include territory in an adjacent county. 1950, c. 16, s. 4.

Each court
to have
a seal.

5. Every court shall have a seal, with which all process shall be sealed or stamped, and which shall be paid for out of the Consolidated Revenue Fund. 1950, c. 16, s. 5.

To be courts
of record.

6. Every court shall be a court of record. 1950, c. 16, s. 6.

Holding of
courts in
cities,
offices of
clerks
therein.

7. In any city in which two division courts are established, all or any of the sittings of both such courts may be held in either of such divisions, and the clerks of both courts may, with the approval of the Lieutenant-Governor in Council, keep their offices in the same division. 1950, c. 16, s. 7.

Accom-
modation.

8.—(1) The local municipality in which a division court is held shall provide a court room, not in or connected with an hotel, and other necessary accommodation for holding the court.

Where no
proper court
room, etc.

(2) If a proper court room and other necessary accommodation are not furnished by the municipality the judge may hold the court in any suitable place in the division or in any other division of the county in which suitable accommodation is

provided and the owner, lessee or tenant of the building in which the court is held shall be entitled to receive from the municipality whose duty it was to provide proper accommodation for the court the sum of \$10 or such larger amount not exceeding \$20 as the Inspector may approve for every day on which the court is held in the building.

(3) Where a municipality, not being a city or town, furnishes a court room and other necessary accommodation, or pays for the use of any building, the municipality shall be entitled to recover from any other municipality the whole or part of which is within the division for which the court is held such reasonable share of the cost as shall be ordered by the judge of the court to be paid and contributed by the last-mentioned municipality. 1950, c. 16, s. 8.

Judge to apportion cost of court room.

9. The sittings of the court in a county town may be held in the court house. 1950, c. 16, s. 9.

Use of court house.

10. Actions and judgments in any court, the number or limits of which are changed, shall continue to be actions and judgments therein, but the judge may transfer any such action or judgment to any other court, and when so transferred it shall be an action or judgment of such other court. 1950, c. 16, s. 10.

Change in number or limits of court.

11. The clerk of the peace shall record in a book to be kept by him the divisions declared and appointed, and the times and places of holding the courts, and the alterations made therein, and he shall transmit to the Inspector a copy of the record. 1950, c. 16, s. 11.

Clerks of the peace to record time and place for holding courts.

JUDGES

12. The court shall be presided over by a judge. 1950, c. 16, s. 12.

Who to preside.

13.—(1) The judge may appoint a barrister to act as his deputy, and the barrister so appointed shall have all the powers and privileges vested in and be subject to all the duties imposed by law upon the judge.

Who to preside in case of illness or absence of judge.

(2) The judge shall forthwith send to the Provincial Secretary notice of the appointment, specifying the name and residence of the barrister so appointed and the cause of his appointment.

Provincial Secretary to be notified of appointment.

(3) No such appointment shall be continued for more than two months, and in case the Lieutenant-Governor in Council

Duration.

disapproves of the appointment, he may annul the same. 1950, c. 16, s. 13.

Adjourn-
ment of
court if
judge does
not arrive
in time.

14. If the judge does not open court on the day appointed for that purpose, the clerk shall, after four o'clock in the afternoon, adjourn the court to an hour on the following day, to be named by him, and so from day to day, adjourning over any Sunday or holiday, until the judge arrives to open court, or until other directions are received from him. 1950, c. 16, s. 14.

Judge to
supervise.

15.—(1) It shall be the duty of the judge to see that the officers of his courts perform their duties, and to examine into complaints against them.

Suspensions.

(2) The judge may for any cause suspend a clerk or bailiff, and in case of suspension shall forthwith report it and the cause thereof to the Inspector, and if a vacancy occurs in the office of clerk or bailiff, the judge shall forthwith notify the Inspector. 1950, c. 16, s. 15.

Action by
or against
judge.

16. An action by or against a judge may be brought in any court of a county adjoining that in which he resides. 1950, c. 16, s. 16.

Power to
amend pro-
ceedings.

17. The judge may at any time, and on such terms as to costs and otherwise as to him may seem just, amend any defect or error in any proceeding, and all such amendments may be made as may be necessary for the advancement of justice, determining the real question raised by or depending on the proceedings and best calculated to secure the giving of judgment according to the very right and justice of the case. 1950, c. 16, s. 17.

CLERKS AND BAILIFFS

Every court
to have
clerk and
bailiff.

18. For every court there shall be a clerk and a bailiff or bailiffs, who shall be appointed by the Lieutenant-Governor and shall hold office during pleasure. 1950, c. 16, s. 18.

Clerk to
issue
summonses
and furnish
copies, etc.

19. The clerk shall issue all summonses and shall make copies thereof with the notices thereon, according to the prescribed form, and, except as otherwise provided by this Act, shall deliver the same to the bailiff for service. 1950, c. 16, s. 19.

Clerk to
keep a
record of
process.

20. The clerk shall cause a note of all summonses, notices, orders, judgments, warrants, executions and returns thereto, to be entered in a book to be kept in his office, and shall sign

his name on every page of the book, and the signed entries, or a copy thereof certified as a true copy by the clerk, shall be sufficient evidence of such entries and of the proceedings referred to therein, without further proof. 1950, c. 16, s. 20.

21.—(1) A procedure book and a foreign procedure book shall be kept by the clerk. Books to be kept by clerks.

(2) The costs of all books and forms required by this Act to be kept by the clerk and bailiff and of necessary stationery and stationery supplies shall be repaid to him by the treasurer of the county, upon the certificate of the Inspector. 1950, c. 16, s. 21. Cost of division court books, forms, etc.

22. The clerk, when required, shall forward the summons and copies for service to the clerk of any other court who shall receive and deliver them to the bailiff for service, and when returned shall send the summons to the clerk from whom it was received, and shall enter the proceedings in the foreign procedure book. 1950, c. 16, s. 22. Forwarding summonses for service in other divisions.

23. The clerk shall prepare an affidavit of service of every summons issued out of his court, or sent to him for service, stating how the same was served, the day of service and the distance the bailiff necessarily travelled to effect service, and the affidavit shall be annexed to or endorsed on the summons and shall be sworn to by the bailiff; but the judge may require the bailiff to be sworn in his presence, and to answer such questions as may be put to him touching any service or mileage. 1950, c. 16, s. 23. Clerk to prepare affidavits of service, etc.

24. The clerk shall issue all warrants and executions, and shall tax costs, subject to revision by the judge, and shall keep an account of all fines payable or paid into court, and of all suitors' money paid into and out of court, and shall enter an account of all such fines and money in a book to be kept by him for that purpose, which shall be open to all persons desirous of searching the same, and shall at all times be accessible to the judge and the Inspector. 1950, c. 16, s. 24. Clerks to issue executions, tax costs and keep account of fines, etc.

25. The money arising from any penalty, forfeiture or fine imposed by or under this Act, not directed to be otherwise applied, shall be paid to the clerk and shall be paid by him to the clerk of the peace, to be paid over to the Treasurer of Ontario. 1950, c. 16, s. 25. Fines and penalties to be paid to clerk of peace.

26. The clerk shall, at least once in every three months and oftener if required by the clerk of the peace, deliver to him a full account in writing verified by affidavit of all fines Clerks to deliver to clerk of peace a verified account of fines.

levied, accounting for and deducting the reasonable expenses of levying the same and any allowance which the judge may make out of such fines in pursuance of the power hereinafter given. 1950, c. 16, s. 26.

And furnish judge with a verified account of moneys paid in and out of court.

27. The clerk, when required by the judge, shall furnish him with a full account in writing, verified by affidavit, of the money paid into or out of the court under orders, judgments or process of the court, and of the balance in court belonging to suitors or others. 1950, c. 16, s. 27.

Clerk to remit moneys.

28. The clerk shall promptly remit all moneys received by him in payment of a judgment to the person entitled thereto and shall in no case retain any such moneys for a period in excess of three months. 1950, c. 16, s. 28.

Clerk annually to make list of suitors' money in court for six years.

29.—(1) The clerk shall annually, in the month of January, make out a correct statement of all sums of money belonging to suitors or others which have been paid into court and have remained unclaimed for six years before the last day of the month of December then last past, specifying the names of the persons for whom or on whose account the same were so paid.

Posting and distributing list.

(2) The clerk shall keep one copy of the statement posted up in his office and another copy in some conspicuous part of the court house or the place where the court is held, and copies shall also be sent to the Treasurer of Ontario and the Inspector.

Disposition of unclaimed moneys.

(3) All such sums shall form part of the Consolidated Revenue Fund, and shall be forthwith paid over by the clerk or officer holding them to the Treasurer of Ontario, and, except by leave of the Lieutenant-Governor in Council, no person shall be entitled to claim any such sum which has remained unclaimed for six years.

Claims of persons under disability.

(4) The time during which the person entitled to claim the money was an infant or of unsound mind, or out of Ontario, shall not be taken into account in computing the six years. 1950, c. 16, s. 29.

Bailiffs to serve process.

30. The bailiff shall promptly serve and execute all summonses, orders, warrants and executions delivered to him by the clerk, and shall so soon as served or executed return the same to the clerk, but subject to section 64 he shall not be required to travel beyond the limits of his division, or be allowed to charge mileage for any distance beyond the limits of the county in which is situated the division for the court of which he is bailiff. 1950, c. 16, s. 30.

31.—(1) Where the gross fees and emoluments earned by a clerk or bailiff are less than \$1,000 a year, the local municipality in which the division court is held shall pay to the clerk and bailiff respectively the sum of \$4 for attending each sitting of the court. Fees for sittings.

(2) Where in any division the clerk and bailiff are paid for attending court sittings by the local municipality in which the court is held under subsection 1, such local municipality shall be entitled to recover from any other municipality for which the court is held, such reasonable share of the amount so paid to the clerk and bailiff as shall be ordered by the judge. 1950, c. 16, s. 31. Apportionment.

32.—(1) The fees upon every proceeding shall be paid in the first instance, and before it is taken, by the party on whose behalf the proceeding is taken. By whom fees to be paid in first instance.

(2) If the fees are not so paid, payment may, by summary order of the judge, be enforced by execution in like manner as a judgment of the court. 1950, c. 16, s. 32. How enforced.

33. At the time of the issue of any process or execution the bailiff's fees thereon shall be paid to the clerk and shall be paid over to the bailiff, upon the return of the execution, and not before; but if the bailiff does not become entitled to any part, or becomes entitled to a part only of such fees, the whole or the surplus, as the case may be, shall be repaid by the clerk to the person from whom the fees were received. 1950, c. 16, s. 33. Bailiff's fees to be paid to clerk when execution issues.

34. If the bailiff neglects to return any process or execution within the time required by law he shall for such neglect forfeit his fees thereon, and all fees so forfeited shall be held to have been received by the clerk, who shall keep a special account thereof, and account for and pay over the same to the clerk of the peace, to be paid to the Treasurer of Ontario, to form part of the Consolidated Revenue Fund. 1950, c. 16, s. 34. Bailiff to forfeit fees if he neglects to return process.

35. A clerk or bailiff shall not directly or indirectly take or receive any commission, charge, fee or reward for or in connection with the collection of any debt or claim which has been or may or can be sued in the court for which he is clerk or bailiff, except such fees as are provided by a tariff of fees under this Act. 1950, c. 16, s. 35. Clerk or bailiff not to accept extra fees.

36. Every clerk and bailiff shall, as often as required by the Inspector, produce at the clerk's office, for examination and Books, etc., to be produced for inspection.

inspection, all books and documents required to be kept by him, and shall report to the Inspector concerning such matters as the Inspector shall require. 1950, c. 16, s. 36.

Clerks' and
bailiffs'
returns to
Inspector.

37. Every clerk and bailiff shall keep a separate book in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, and, on or before the 31st day of January in every year, shall make a return under oath to the Inspector showing the aggregate amount of fees, charges and emoluments which he became entitled to receive during the year which ended on the 31st day of December next preceding. 1950, c. 16, s. 37.

Clerk to
make
returns to
Lieutenant-
Governor.

38. Every clerk, on or before the 31st day of January in each year, shall make a return, in such form and manner as the Lieutenant-Governor in Council shall prescribe, of the business of his office for the year which ended on the 31st day of December next preceding. 1950, c. 16, s. 38.

Annual
return of
commitment
of judgment
debtors.

39. Every clerk, on or before the 31st day of January in every year, shall make to the Inspector a return showing the number of judgment debtors who, during the 12 months ending the 31st day of December next preceding, were ordered to be committed under each of the heads mentioned in section 132. 1950, c. 16, s. 39.

Security
by clerks
and bailiffs.

Rev. Stat.,
c. 311.

40.—(1) Every clerk and bailiff shall furnish such security as may be required by the Lieutenant-Governor in Council for the due performance of the duties of his office, and, subject to the rules, the provisions of *The Public Officers Act* relating to the giving of security shall apply to such security.

Security
to enure
to benefit
of person
injured.

(2) The security shall enure to the benefit of any person suffering damage by the default, breach of duty or misconduct of the clerk or bailiff. 1950, c. 16, s. 40.

Entries of
clerk or
bailiff
evidence
against
surety.

41.—(1) In an action against a surety of a clerk or bailiff, the entries in the books kept by such clerk or bailiff shall be *prima facie* evidence against the surety.

Interpre-
tation of
"clerk or
bailiff".

(2) For the purpose of this section, the words "clerk or bailiff" include a person who has ceased to be a clerk or a bailiff, as the case may be. 1950, c. 16, s. 41.

Clerk not
to practise
as barrister,
etc.

42. A clerk shall not practise as a barrister or solicitor. 1950, c. 16, s. 42.

Actions by
and against
clerks and
bailiffs.

43.—(1) A clerk or bailiff shall not sue or be sued in the court of which he is clerk or bailiff.

(2) A clerk or bailiff shall sue or be sued separately or *Idem.* jointly with another person in the court of any next adjoining division whether in the same or another county.

(3) Nothing in this section shall prevent proceedings from being continued in the court in which the action was brought, ^{Commenced before appointment.} where it was commenced before the appointment of such clerk or bailiff. 1950, c. 16, s. 43.

44. A clerk, bailiff or other officer of the court shall not, ^{Bailiff and other officers not to purchase goods seized.} directly or indirectly, purchase any property at any sale made by a bailiff under legal process, and every such purchase shall be absolutely void. 1950, c. 16, s. 44.

45. If a clerk, bailiff or other officer of the court is guilty ^{Extortion.} of extortion he shall, upon proof thereof before the court, be forever disqualified to hold any office of profit or emolument in a division court, and shall also be liable in damages to the party aggrieved. 1950, c. 16, s. 45.

46.—(1) Upon a complaint in writing that a bailiff or ^{Misconduct of court officers.} officer, acting under colour or pretence of process of the court, is guilty of extortion or misconduct, or does not duly pay or account for all money levied or received by him by virtue of his office, the judge may, at a sittings of the court, inquire into the matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary persons, and make such order thereupon for the repayment of any money extorted, or for the due payment of any money levied or received, and for the payment of such damages and costs to the person aggrieved, as he may think just.

(2) In default of payment of the money ordered to be ^{Enforcing order for payment by bailiff.} paid by the bailiff or officer within the time mentioned in the order for the payment thereof, the judge may, by warrant under his hand and seal, cause such sum to be levied by distress and sale of the goods of the offender, together with the reasonable charges of the distress and sale, and in default of such distress or summarily in the first instance, or where payment is not made forthwith, if so ordered, may commit the offender to the common jail of the county for a period not exceeding three months, unless the money and costs are sooner paid. 1950, c. 16, s. 46.

47. If a bailiff, by neglect, connivance or omission, loses ^{Bailiff neglecting duty in relation to execution.} the opportunity of levying an execution or taking property under an attachment, or unduly delays to levy or attach, the judge, upon complaint of the party aggrieved, and upon proof of the fact alleged, may order the bailiff to pay such damages

as the party aggrieved appears to have sustained, not exceeding the sum for which the execution or attachment issued, and upon demand being made therefor, and on his refusal to satisfy the same, payment may be enforced by such means as are provided for enforcing judgments. 1950, c. 16, s. 47.

Resignation,
removal or
death of
clerk.

48. All accounts, moneys, books, papers, documents and other things in the possession of a clerk or bailiff by virtue of or appertaining to his office, shall, upon his death, resignation or removal, immediately become the property of the clerk of the peace, who shall hold the same until the appointment of another clerk or bailiff, to whom he shall deliver over the same, when security has been furnished on behalf of such clerk or bailiff. 1950, c. 16, s. 48.

Leave of
absence.

49. Leave of absence for a period not exceeding two months may be granted by the Inspector to a clerk or bailiff. 1950, c. 16, s. 49.

Clerk of
peace to
act as
clerk when
office of
clerk is
vacant.

50. Subject to section 51, upon the death, resignation, suspension or removal of the clerk, the clerk of the peace shall be the clerk until a successor is appointed or the suspension is removed, and the clerk of the peace shall be paid by the corporation of the county for his services in taking over the office the sum of \$5 together with actual disbursements. 1950, c. 16, s. 50.

Deputy
during
absence of
clerk or
bailiff.

51.—(1) With the approval of the Inspector, when prevented from acting because of absence or illness or any cause other than suspension the clerk or bailiff may appoint a deputy to act for him and the clerk or bailiff, as the case may be, shall be jointly and severally responsible for all the acts and omissions of the deputy so appointed.

Appointment
of clerk,
bailiff *pro*
tempore.

(2) With the approval of the Inspector, where there is no clerk or bailiff or the clerk or bailiff is under suspension the judge may appoint a clerk or bailiff, as the case may be, *pro tempore*.

Powers,
privileges,
duties.

(3) Where an appointment is made under subsection 1 or 2, the person so appointed shall, during the period of his appointment, have all the powers and privileges and be subject to the duties of the clerk or bailiff, as the case may be.

Clerk acting
as bailiff.

(4) Where there is no bailiff or the bailiff is for any reason unable to act, the clerk may act in his place. 1950, c. 16, s. 51.

Continua-
tion of
proceedings.

52.—(1) In the event of the death, resignation, suspension or removal of a bailiff, after action taken by him under an

execution or attachment, the proceedings may be continued by his successor.

(2) The benefit of all securities given to the bailiff shall enure to his successor in office. 1950, c. 16, s. 52. Securities given to the bailiff.

JURISDICTION AS TO CAUSES OF ACTION AND QUANTUM

53. The court shall not have jurisdiction in,

Cases in which court has no jurisdiction.

- (a) an action for the recovery of land, or an action in which the right or title to any corporeal or incorporeal hereditaments, or any toll, custom or franchise comes in question;
- (b) an action in which the validity of any devise, bequest or limitation under any will or settlement is disputed;
- (c) an action for malicious prosecution, libel, slander, criminal conversation, seduction or breach of promise of marriage;
- (d) an action against a justice of the peace for anything done by him in the execution of his office, if he objects thereto;
- (e) an action upon a judgment or order of the Supreme Court or a county court where execution may issue upon or in respect thereof. 1950, c. 16, s. 53.

54.—(1) Save as otherwise provided by this Act, the court shall have jurisdiction in, Cases in which court has jurisdiction.

- (a) a personal action where the amount claimed does not exceed \$200;
- (b) a personal action if all the parties thereto consent in writing, and the amount claimed does not exceed \$400;
- (c) an action on a claim or demand of debt, account, or breach of contract, or covenant, or money demand, whether payable in money or otherwise, where the amount or balance claimed does not exceed \$200; provided that in the case of an unsettled account the whole account does not exceed \$1,000;
- (d) an action for the recovery of a debt or money demand, where the amount claimed, exclusive of

interest, whether the interest is payable by contract or as damages, does not exceed \$400 and the amount claimed is,

- (i) ascertained by the signature of the defendant or of the person whom as executor or administrator he represents, or
- (ii) the balance of an amount not exceeding \$400 which amount is so ascertained, or
- (iii) the balance of an amount so ascertained which did not exceed \$800, and the plaintiff abandons the excess over \$400,

but an amount shall not be deemed to be so ascertained where it is necessary for the plaintiff to give other and extrinsic evidence beyond the production of a document and proof of the signature to it; and the jurisdiction conferred by this clause shall apply to claims and proceedings against an absconding debtor;

- (e) an action or contestation for the determination of the right of a creditor to rank upon an insolvent estate where the claim of the creditor does not exceed \$200.

Combining
causes of
action.

(2) Claims combining causes of action may be joined in one action where,

- (a) the amount of the claim in respect of each cause of action does not exceed the limit prescribed by subsection 1 for such cause of action; and
- (b) the total amount of the combined claims does not exceed \$400.

Separate
findings on
combined
claims.

(3) The findings of the court upon claims so joined shall be separate.

Replevin.

(4) Where the value of property distrained, taken or detained does not exceed \$200 and the title to the land is not brought into question, an action of replevin may be brought in the court for the division within which the defendant or one of the defendants resides or carries on business or where the property was distrained, taken or detained, and *The Replevin Act* shall *mutatis mutandis* apply to such action.

Rev. Stat.,
c. 339.

Actions
between
teachers
and school
boards.

Rev. Stat.,
cc. 165, 316,
356.

(5) The court shall also have jurisdiction in actions between teachers and school boards as provided by *The High Schools Act*, *The Public Schools Act* and *The Separate Schools Act*. 1950, c. 16, s. 54.

55. Except in actions in which a jury is demanded as Summary hearings. hereinafter provided, the judge shall hear and determine in a summary way all questions of law and fact and may make such order or judgment as appears to him just and agreeable to equity and good conscience, which shall be final and conclusive between the parties, except as herein otherwise provided. 1950, c. 16, s. 55.

56. Upon a contract for the payment of a sum certain in Judge may order payment in money, although contract not for payment in money. labour or in any kind of goods or commodities or in any other manner than in money, the judge may give judgment for the amount in money as if the contract had been so expressed, if the goods and commodities have not been delivered or the labour or other thing performed in accordance with the contract. 1950, c. 16, s. 56.

57.—(1) The court in actions otherwise within its juris- Powers of court. diction shall have power to grant relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to relieve against penalties and forfeitures, in as full and ample a manner as might be done in the like case by the Supreme Court.

(2) Nothing in this section shall confer jurisdiction to No injunctions. grant an injunction. 1950, c. 16, s. 57.

58. A minor may sue for any sum not exceeding \$100 due Minors may sue for wages. to him for wages, or for work or services, as if he were of full age. 1950, c. 16, s. 58.

59. A cause of action shall not be divided into two or more Causes of action not to be divided. actions for the purpose of bringing it within the jurisdiction of the court. 1950, c. 16, s. 59.

60. A judgment in an action brought for the balance of Judgment to be full discharge. an account, or for a part of a claim, where the residue is abandoned to bring the claim within the jurisdiction of the court, shall be a full discharge of all demands in respect of the account for the balance of which such action was brought or for the whole claim, as the case may be. 1950, c. 16, s. 60.

61.—(1) Where it appears at any stage of an action Transfer of actions to Supreme Court. otherwise of the proper competence of the court that the court has not cognizance thereof on account of the title to land or any corporeal or incorporeal hereditament, or any toll, custom or franchise coming in question, or the validity of a devise, bequest or limitation under a will or settlement being disputed, or the amount involved is in excess of the jurisdiction of the court, the action shall not on that account

be dismissed, but a judge of the Supreme Court, or the judge of the court in which the action is pending, may order the same to be transferred to the Supreme Court or to a county court where the county court would have jurisdiction, upon such terms as to the payment of costs or otherwise as he may think fit, and thereafter the action shall proceed in the Supreme Court or the county court as if originally commenced therein, and as if the defendant had entered an appearance; but the judge may give such directions as to procedure as may be deemed proper.

Appeal from order.

(2) Where the order is made by a judge of the division court, an appeal shall lie therefrom to a judge of the Supreme Court in chambers who may rescind the order or vary the terms thereof. 1950 c. 16, s. 61.

Action may be removed into Supreme Court.

62. If it appears to a judge of the Supreme Court than an action is a fit one to be tried in the Supreme Court, he may order that it be transferred to the Supreme Court upon such terms, as to payment of costs or otherwise, as he may think fit. 1950, c. 16, s. 62.

Counter-claim involving matters beyond jurisdiction.

63.—(1) When a counterclaim is disputed and involves matters beyond the jurisdiction of the division court, the judge may try the claim and may, if he sees fit, stay the issue of execution upon the judgment until the counterclaim has been disposed of upon such terms as to security and otherwise as he sees fit to impose.

Set-off of counter-claim when admitted.

(2) If the counterclaim or any part thereof is admitted the judge may direct the amount admitted to be set off *pro tanto* without prejudice to any proceedings to recover the balance. 1950, c. 16, s. 63.

TERRITORIAL JURISDICTION AND PLACE OF TRIAL

64.—(1) An action may be entered and tried,

In what court actions may be entered and tried.

(a) in the court for the division in which the cause of action arose or in which the defendant, or any one of several defendants, resides or carries on business at the time the action is brought; or

(b) in the court the place of sitting whereof is the nearest to the residence of the defendant,

Actions for wages of woodmen.

provided that any action for wages of a woodman may be entered and tried in the court for the division in which the contract of hiring was made, notwithstanding any

stipulation in the contract of employment or otherwise, and in this section, "woodman" means a person performing labour or services in connection with any logs or timber and includes cooks, blacksmiths, artisans and all others usually employed in connection with such labour or services.

(2) In the cases provided for by clause *b* of subsection 1 and by subsection 2 of section 43, the summons may be served by a bailiff of the court out of which it issues, and upon judgment being recovered execution against the goods and chattels of the debtor, and all other process and proceedings to enforce payment of the judgment, may be issued to the bailiff of such court and be executed and enforced by him in the county in which the debtor resides, as well as in the county in which the judgment was recovered. 1950, c. 16, s. 64.

65. If a person desires to bring an action in the court of a division other than as in section 64 mentioned, the judge may by order authorize an action to be entered and tried in the court of any division in his county adjacent to the division in which the defendant or one of the defendants resides, whether such defendant resides in the county of the judge granting the order or in an adjoining county. 1950, c. 16, s. 65.

66. No proviso, condition, stipulation, agreement or statement which provides for the place of trial of an action, matter or proceeding shall be of any force or effect where the defendant, within the time limited for disputing the plaintiff's claim or within such further time as the judge shall allow, files with the clerk of the court in which the action was commenced a notice disputing the jurisdiction of the court and an affidavit of the defendant or his agent stating that in his belief there is a good defence to the action on the merits, the division wherein the cause of action arose, or partly arose, and the division where the defendant resides. 1950, c. 16, s. 66.

67.—(1) Where a claim is within the proper competence of a division court, the action may be brought notwithstanding that the residence of the defendant is, at the time of bringing the action, out of Ontario, and the action may be brought in the court of the division in which the cause of action arose or partly arose, but the court may refuse to allow the action to proceed if it appears that the action is one which ought to be tried elsewhere.

(2) The service of the summons may be made by a bailiff of the court out of which it issued or by any person who may,

Service of
process in
such cases.

When
actions may
be brought
in other than
the regular
divisions.

Effect of
agreement
as to place
of trial.

Actions when
defendant
resides
out of
Ontario.

Service of
summons on
non-
residents.

either before or after the service, be approved by the judge or by the clerk, but the summons shall be served at least 15 days before the return day thereof.

Allowance
for service
out of
Ontario.

(3) Where service of the summons has been effected out of Ontario, the judge may allow, as costs in the action, a sum towards the expenses incurred in effecting service, not exceeding in the whole \$5. 1950, c. 16, s. 67.

Where
defendant a
corporation
with head
office out of
Ontario.

68. Where the defendant is a corporation not having its head office in Ontario, and the cause of action arose partly in one division and partly in another, the plaintiff may bring his action in either division. 1950, c. 16, s. 68.

Place of
trial where
amount sued
for exceeds
\$100.

69.—(1) Where the debt or money payable exceeds \$100 and is made payable by the contract of the parties at a place named therein, the action may be brought thereon in the court of the division in which the place of payment is situate, subject to the action being transferred to the court of any division in which but for this section it might have been brought.

Changing
place of
trial in
such cases.

(2) The judge of the court in which the action is brought may, upon application of the defendant made within the time limited for disputing the plaintiff's claim, make an order transferring the action accordingly.

Affidavit in
support of
application.

(3) The application shall be supported by an affidavit of the applicant or his agent stating that the applicant intends to defend the action, that there is a good defence upon the merits, that the cause of action did not wholly arise in the division in which the action is brought, that the witnesses for the defence, or some of them, reside within the division in which the defendants, or one of them, resided or carried on business at the time the action was brought, and that the application is not made for the purpose of delay, and the dates of the next two sittings of the court to which it is sought to have the action transferred shall also be shown.

Order and
papers to
be trans-
mitted
to clerk.

(4) The order shall direct at what sittings of the court the action shall be tried, subject to all rights of postponement as in other cases, and shall be attached by the clerk to the summons and other proceedings in the action, and he shall forthwith transmit them to the clerk of the court to which the action is transferred, and enter a minute thereof in his procedure book.

To be
entered in
procedure
book.

(5) Upon receipt of the order and other papers by the clerk of such last-mentioned court, he shall enter the action and proceedings in his procedure book.

(6) All the papers and proceedings in the action thereafter shall be entitled and carried on as though the action had originally been entered in the last-mentioned court. Style.

(7) The defendant shall forthwith serve a copy of the order upon the plaintiff or his agent. 1950, c. 16, s. 69. Service of order.

70.—(1) If it appears that an action should have been entered in some other court of the same or some other county, it shall not fail for want of jurisdiction, but, on such terms as the judge shall order, all the papers and proceedings in the action may be transferred to any court having jurisdiction in the premises, and shall become proceedings thereof as if the action had been entered therein, and shall be continued as if it had originally been entered in the last-mentioned court. When action entered in wrong court.

(2) The clerk of the court to which the proceedings have been transferred shall place the action on the list for trial at the next sittings of his court which commences six clear days or more after he receives the papers, and he shall forthwith after receiving the papers notify the parties or their agents by registered post of the date, hour and place of the sittings, and the clerk issuing the summons shall certify in detail to the court to which the action is transferred all the costs incurred up to the date of the transfer. 1950, c. 16, s. 70. Clerk to place on list and notify parties.

PROCEDURE BEFORE TRIAL

71.—(1) The plaintiff shall enter his claim with the clerk and shall at the time of such entry leave with the clerk a copy of the claim for each defendant. Entry of claim.

(2) The claim shall set out the particulars thereof with reasonable certainty and detail. Particulars.

(3) Each claim shall be numbered by the clerk according to the order in which it is entered, and a summons shall be issued by the clerk, bearing the number of the claim on the margin thereof. 1950, c. 16, s. 71. Summons.

72. In an action on a promissory note, bill of exchange or cheque, the note, bill or cheque shall be filed with the clerk before judgment, unless otherwise ordered or unless it be shown that the note, bill or cheque is lost or that it cannot for some other reason be produced. 1950, c. 16, s. 72. Promissory note, etc., to be filed.

73. The clerk shall annex the plaintiff's claim to the summons, and shall deliver copies of the summons and claim to the proper person to serve it. 1950, c. 16, s. 73. What to accompany summons.

When
service to be
personal or
otherwise.

74. Where the amount of the claim exceeds \$30 the service shall be personal, and where the amount does not exceed \$30 the service may be on the defendant, his wife or servant, or on a grown-up inmate of the defendant's dwelling house or usual place of abode or business. 1950, c. 16, s. 74.

Substitu-
tional
service.

75. The judge may make an order for substitutional service or for service by advertisement or otherwise. 1950, c. 16, s. 75.

Service on
corporations.

76.—(1) Every summons or process, whether before or after trial, against a corporation, firm or individual whose chief place of business is not within the division in which the summons or process is issued, and all subsequent papers and proceedings in the action, may be served on the agent of the corporation, firm or individual whose office or place of business as such agent is either within the division from the court of which the summons or process issued, or is nearest thereto.

Interpre-
tation.

(2) For the purpose of this section, "agent" includes,

- (a) in the case of a railway company, a station-master having charge of a station of the company;
- (b) in the case of a telegraph company, a person having charge of a telegraph office of the company;
- (c) in the case of an express company, a person having charge of an express office of the company;
- (d) in the case of any other corporation, firm or individual, a manager or other principal officer in charge of the office or place of business. 1950, c. 16, s. 76.

Notice of
dispute.

77. Where any party to an action intends to dispute the claim made against him he shall leave with the clerk within 10 days of the service upon him of the summons or other process constituting a notice of the claim a notice of dispute setting out his reasons for disputing the claim together with sufficient copies thereof and the clerk shall forthwith send a copy thereof to each of the plaintiffs or other parties to the action. 1950, c. 16, s. 77.

Dispute as
to territorial
jurisdiction.

78. Where any party to an action intends to contest the territorial jurisdiction of the court, he shall include in his notice of dispute a statement that he disputes the jurisdiction of the court, and in default of such notice the jurisdiction shall be considered as established and determined and all

proceedings may thereafter be taken as fully and effectually as if the action had been properly entered or taken in such court. 1950, c. 16, s. 78.

79. At any time before judgment is entered although the time for giving the notice disputing the plaintiff's claim has expired, the judge, on sufficient grounds shown, and on such terms as to him may seem just, may give leave to the defendant to dispute the plaintiff's claim, in which case the notice disputing the claim shall immediately be left with the clerk, and also delivered to the plaintiff or sent to him by registered post. 1950, c. 16, s. 79.

Leave to dispute claim before judgment.

80. A defendant who has filed a notice disputing the claim may, by notice to the clerk at least six days before the sittings at which the action may be tried, consent that judgment be entered against him for any amount, and the clerk shall immediately notify the plaintiff thereof by registered post, and thereupon the plaintiff shall be entitled to have judgment entered by the clerk as by default for such amount and the costs necessarily incurred. 1950, c. 16, s. 80.

Withdrawal of defence.

81.—(1) Where the defendant desires to avail himself of the laws of set-off, or of *The Limitations Act* or of a defence under any other statute, he shall give notice thereof to the plaintiff.

Notice of set-off or other statutory defence. Rev. Stat., c. 207.

(2) Except by leave of the judge no evidence of set-off shall be given by the defendant save such as is contained in the particulars delivered.

Evidence of set-off.

(3) If the set-off proved exceeds the amount found to be due to the plaintiff, judgment shall be entered for the defendant for the excess, if the excess be an amount within the jurisdiction of the court; but if the excess be an amount beyond the jurisdiction of the court, the judge may order that an amount of the set-off equal to the amount found to be due to the plaintiff be satisfied by the claim, but the adjudication shall not be a bar to the recovery by the defendant in a subsequent action for the residue of the set-off. 1950, c. 16, s. 81.

Where set-off exceeds amount due to plaintiff.

82.—(1) If the defendant desires to plead a tender before action of a sum of money in full satisfaction of the plaintiff's claim he may do so on filing his notice of dispute, and at the same time paying into court the amount mentioned in the notice, and notice of the dispute and payment shall be forthwith sent by the clerk to the plaintiff by registered post or delivered at his usual place of abode or business.

Plea of tender with payment of money into court.

Notice by
plaintiff.

(2) The plaintiff shall be deemed to have accepted the money in full satisfaction of his claim and all proceedings in the action shall be stayed unless within five days after the receipt of notice of the payment he signifies in writing to the clerk his intention to proceed for his claim notwithstanding such defence, in which case the action shall proceed.

When
plaintiff
does not
give notice.

(3) If the plaintiff does not give the notice mentioned in subsection 2, the money shall be paid to him less \$1 to be paid over to the defendant for his trouble.

Giving of
notice
after time
limited.

(4) The judge may allow the plaintiff to give the notice to the clerk after the expiration of the five days on such terms as to him may seem just.

Rule as to
costs where
plaintiff
proceeds
for balance.

(5) If after tender and payment into court the plaintiff proceeds with the action and does not recover more than the sum paid into court, he shall pay the defendant his costs, charges and expenses, and the amount thereof may be paid to the defendant out of the money so paid in, or may be recovered from the plaintiff in the same manner as money payable under a judgment; but, if the plaintiff recovers more than the sum paid into court, the full amount paid into court shall be applied towards the satisfaction of his claim, and judgment may be given against the defendant for the residue and costs of the action. 1950, c. 16, s. 82.

Defendant
may pay
money into
court.

83.—(1) The defendant may, within the time limited for filing his notice of dispute, pay into court a sum in full satisfaction of the plaintiff's claim, together with the plaintiff's costs up to the time of such payment.

Clerk to
give notice
of payment
to plaintiff.

(2) The clerk shall forthwith deliver or send notice of such payment by registered post to the plaintiff, and the sum so paid shall be paid to the plaintiff, and he shall be deemed to have accepted it in full satisfaction of his claim, and all proceedings in the action shall be stayed, unless within five days after the receipt of the notice the plaintiff gives notice to the clerk of his intention to proceed for the remainder of his claim, in which case the action shall proceed.

Notice may
be given after
five days.

(3) The judge may allow the plaintiff to give the notice to the clerk after the expiration of the said five days on such terms as to him may seem just.

Plaintiff
to pay
defendant's
costs if no
further sum
recovered.

(4) If the plaintiff recovers no more than the sum paid into court, he shall pay the defendant all costs, charges and expenses incurred by him in the action after such payment, to be taxed and recovered by the same means as any other sum ordered by the court to be paid. 1950, c. 16, s. 83.

84.—(1) A clerk or bailiff may take a confession or acknowledgment of debt from a defendant, in the prescribed form, which shall be witnessed by the clerk or bailiff at the time of the taking thereof; and upon the production of the confession or acknowledgment to the judge, and proof thereof by the oath of the clerk or bailiff, the judge may order that judgment be entered thereon. Clerks and bailiffs may take confessions.

(2) The oath shall state that the party making it has not received, and that he will not receive, anything from the plaintiff or defendant, or any other person, except his lawful fees for taking the confession or acknowledgment, and that he has no interest in the demand sought to be recovered. Oath of clerk or bailiff.

(3) Either party may apply to a judge for judgment to be signed on consent. 1950, c. 16, s. 84. Judgment on consent.

85.—(1) The judge at any stage of the proceedings upon such terms as may appear to him to be just may order that the name of the plaintiff, defendant, or garnishee improperly joined be struck out and that any person who ought to have been joined or whose presence is necessary in order to enable the judge effectually and completely to adjudicate upon the questions involved in the action be added as plaintiff, defendant or garnishee. Striking out and adding parties.

(2) Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff, the judge, if satisfied that it has been so commenced through a *bona fide* mistake and that it is necessary for the determination of the real matter in dispute so to do, may order any other person to be substituted or added as plaintiff upon such terms as he may deem just. Substituting or adding plaintiff.

(3) No person shall be added or substituted as a plaintiff or as a next friend unless his consent in writing thereto is filed. Consent of party added required.

(4) A person who is added as a defendant or garnishee shall be served with a copy of the summons, the original summons being first amended, and the proceedings against him shall be deemed to have commenced from the date of the order making him a party; but if the application to add any person as a party defendant or garnishee be made at the trial, the judge may make the order in a summary manner upon such terms as to him may seem just, and may dispense with the service of a copy of the summons if such person or his agent consents thereto. 1950, c. 16, s. 85. Service on parties added.

Third
party.

86.—(1) Where a defendant claims to be entitled to contribution or indemnity from or any other relief over against any person not a party to the action or against another defendant, hereinafter called a third party, he may within the time limited for entering his dispute, enter with the clerk his account, claim or demand in writing in detail, and in cases of tort particulars of his demand, against the third party stating the nature and grounds thereof and shall at the same time deliver to the clerk a copy, and if necessary copies of his account, claim or demand and shall pay to the clerk the prescribed fees.

Summons
to third
party.

(2) The clerk upon receipt of the prescribed fees shall annex the account, claim or demand and particulars, if any, to a copy of the summons to the defendant and shall deliver a copy thereof to the proper person for service upon the third party.

Procedure.

(3) The practice and procedure as between the defendant and the third party shall be the same *mutatis mutandis* as the practice and procedure as between a plaintiff and defendant and the judge may make such direction as may appear proper for having the question between the defendant and the third party most conveniently determined and as to the mode and extent in or to which the third party shall be bound or made liable by the judgment in the action and may make such order or give such judgment against the third party as may be required.

Default of
appearance.

(4) Where a third party makes default in entering an appearance, if the action is tried and results in favour of the plaintiff, the judge who tries the action may, at or after the trial, direct such judgment as the nature of the case may require to be entered for the defendant giving the notice against the third party.

Delay to
be avoided.

(5) A plaintiff shall not be prejudiced or unnecessarily delayed by reason of questions between the defendant and the third party in which he is not concerned and such directions shall be given and terms imposed as may be necessary to prevent delay of the plaintiff where it can be done without injustice to the defendant and the third party. 1950, c. 16, s. 86.

Where no
dispute,
general rule.

87. Where in an action in which the claim is not a debt or money demand the defendant does not leave a notice of dispute with the clerk within 10 days of the service upon him of the summons and claim, the plaintiff shall not be required to prove liability but shall prove the amount of his claim in court. 1950, c. 16, s. 87.

88.—(1) Where in an action for the recovery of a debt or money demand the defendant does not leave a notice of dispute with the clerk within 10 days of the service upon him of the summons and claim, final judgment may be entered by the clerk at any time within six months of the return of the summons, or, by the order of the judge, at any time thereafter for the amount claimed and execution may issue thereon without prejudice to the right of the plaintiff to proceed for the remainder of his claim. Default judgment.

(2) Where in an action for the recovery of a debt or money demand a notice of dispute is filed in respect of part only of the plaintiff's claim, subsection 1 shall apply to the other part of such claim. Dispute as to part of claim.

(3) Judgment shall not be entered until the summons and claim with an affidavit of the due service of both have been filed. Proof of service.

(4) The judge may set aside the judgment and permit the case to be tried on such terms as to him may seem just. Judge may set aside judgment. 1950, c. 16, s. 88.

89. Where proof is made by affidavit or otherwise of the service of a debt or money demand summons and of the claim as required by section 90, and judgment has not been entered under such section, the judge may, if the defendant does not in person or by agent appear in open court, as required by the summons, give judgment against him by default, without requiring proof of the plaintiff's claim. 1950, c. 16, s. 89. Judgment by default under s. 90, where final judgment not entered.

90.—(1) In any action for \$25 or more commenced by a debt or money demand summons, the plaintiff, on an affidavit made by himself or any other person swearing positively to the facts and verifying the cause of action and the amount claimed and stating that in his belief there is no defence to the action, and the reasons why immediate judgment should be granted, may concurrently with the service of the debt or money demand summons, or at any subsequent time, serve the defendant with a notice of motion and copy of the affidavit, returnable not less than four clear days after service, to show cause before the judge why the plaintiff should not be at liberty to have final judgment entered by the clerk for the amount of the debt or money demand sought to be recovered, together with interest, if any, and costs. Motion for judgment.

(2) The judge thereupon, if the reasons for immediate judgment appear to be sufficient, unless the defendant or his Idem.

agent by affidavit or otherwise satisfies him that the defendant has a good defence to the action on the merits, or discloses such facts as may be deemed sufficient to entitle him to defend the action, may make an order empowering the clerk to sign final judgment.

How
defendant
may show
cause.

(3) The defendant may show cause by offering to bring into court the amount sought to be recovered, or by affidavit which shall state whether the defence he alleges goes to the whole or to part only, and if to part only, then to what part of the claim, and the judge may, if he thinks fit, order the defendant to attend and be examined upon oath, and to produce any books and documents, or copies thereof, or extracts therefrom.

Partial
defence.

(4) If it appears that the defence applies only to a part of the claim, or that part of the claim is admitted to be due, the plaintiff shall be entitled to have final judgment entered forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, payment of any amount levied, or any part thereof, into court by the bailiff, the taxation of costs or otherwise, as to the judge may seem just, and the defendant may be allowed to defend as to the residue of the claim.

Where one
defendant
has good
defence.

(5) If it appears to the judge that a defendant has a good defence, or ought to be permitted to defend, and that any other defendant has not such defence, and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to have judgment entered against the latter, and may issue execution upon the judgment without prejudice to his right to proceed with his action against the former.

Terms upon
giving leave
to defend.

(6) Leave to defend may be given unconditionally, or subject to such terms as to giving security or otherwise, as to the judge may seem just.

Setting
aside or
varying
order.

(7) Within seven days after making the order, and upon good grounds being shown, the judge may set aside or vary the order upon such terms as to him may seem just. 1950, c. 16, s. 90.

TRIALS, WITNESSES, EVIDENCE

Judge may
summarily
dispose of
action.

91.—(1) Where a trial is to be had the defendant shall either personally or by agent appear in the court to answer, and, on answer being made, the judge shall without further pleading or formal joinder of issue proceed in a summary

way to try the action and give judgment, and if satisfactory proof is not given entitling either party to judgment, he may nonsuit the plaintiff.

(2) No evidence shall be given of any cause of action except such as is contained in the claim as entered by the plaintiff, ^{Scope of evidence.} unless the judge in the special circumstances of any case otherwise directs. 1950, c. 16, s. 91.

92.—(1) The clerk shall place all actions in which the sum sought to be recovered exceeds \$100 at the foot of the trial list and the judge shall in such cases, unless an agreement not to appeal has been signed and filed as provided by section 107, take down the evidence in writing or cause the same to be taken down in shorthand by a shorthand writer appointed under section 18 of *The County Judges Act*, or by some other competent person. ^{Actions over \$100. Rev. Stat., c. 76.}

(2) Where the evidence is taken down by the judge in writing it shall be left with the clerk and in the event of an application for a new trial it shall be forwarded to the judge by the clerk for the purposes of the application. ^{Evidence taken down by judge.}

(3) Where the evidence is taken down in shorthand it shall not be necessary for the shorthand writer to extend or transcribe his notes except in the case of an appeal or an application for a new trial. ^{Shorthand writer's notes.}

(4) The fees and expenses of a shorthand writer appointed under section 18 of *The County Judges Act* attending for the purpose of taking down the evidence as provided in subsection 1, shall be borne and paid in the same manner as the fees and expenses of a shorthand writer attending a sittings of a county or district court. 1950, c. 16, s. 92. ^{Fees and expenses.}

93. If the defendant does not appear at the trial or sufficiently excuse his absence, or if he neglects to answer, the judge, on proof of due service of the summons and particulars, may proceed with the trial in his absence, and, except where the plaintiff's claim is for unliquidated damages in case of the personal service of the summons and of detailed particulars of the plaintiff's claim, the judge may, in his discretion, give judgment without further proof. 1950, c. 16, s. 93. ^{Proceedings in case defendant does not appear.}

94. The judge may adjourn the trial of an action, whether it is being tried with or without a jury, to permit either party to summon witnesses or to produce further proof, or to serve or give any notice necessary to enable him to enter more fully into his case or for any cause which the judge thinks reasonable, upon such conditions as to payment of costs and ^{Judge may adjourn hearing of cause.}

admission of evidence, or otherwise, as to him may seem just. 1950, c. 16, s. 94.

Parties may obtain subpoenas from clerk.

95.—(1) A party may obtain from the clerk of any division court in the county a subpoena with or without the clause for the production of books, papers and documents, requiring any witness, resident within Ontario or served with the subpoena therein, to attend at a specified court or place before the judge, or an arbitrator appointed by him under the provisions hereinafter contained, and the clerk, when requested by a party or his agent, shall furnish copies of such subpoena.

Service of subpoena.

(2) Any number of names may be inserted in a subpoena, and service thereof may be made by any literate person, personally or by leaving a copy thereof at the usual place of abode of the witness, and proof of service and of tender or payment of witness fees and mileage may be received by the judge, either orally or by affidavit. 1950, c. 16, s. 95.

Penalty for disobeying subpoena or refusing to be sworn.

96.—(1) Every person served with a copy of a subpoena to or for whom at the time of service a tender or payment of his witness fees and mileage has been made, who refuses or neglects without sufficient cause to obey the subpoena, and every person in court called upon to give evidence who refuses to be sworn or to give evidence, shall be liable to pay such fine not exceeding \$8 as the judge may order, and shall be also liable to imprisonment for any time not exceeding 10 days on the order of the judge.

Enforcing payment of fine.

(2) The fine shall be levied and collected with costs by the same process as a judgment recovered in the court, and the whole or any part of the fine, after deducting the costs, shall be applicable, in the discretion of the judge, towards indemnifying the party injured by such refusal or neglect, and the remainder shall form part of the Consolidated Revenue Fund. 1950, c. 16, s. 96.

Power to issue commissions to take evidence.

97.—(1) If a party is desirous of having at the trial or hearing the testimony of a person residing out of Ontario, the judge, upon hearing the parties, may order the issue of a commission out of and under the seal of the court to a commissioner to take the examination of such person.

Applicant and employees.

(2) An order shall not be made for the issue of a commission for taking the testimony of the party applying therefor, or of any person in his employment, unless in the opinion of the judge a saving of expenses will be caused thereby, or unless it is clearly made to appear that the party or person is aged, infirm, or unable from sickness to appear as a witness.

(3) If it is made to appear to the judge that a material and necessary witness residing in Ontario is sick, aged or infirm, or that he is about to leave Ontario, and that his attendance as a witness cannot be procured, the judge may make an order appointing a suitable person to take his testimony. Persons in Ontario.

(4) An order may also be obtained for the examination of a witness who resides in a remote part of Ontario, and at a great distance from the place of trial, if it be made to appear that his attendance cannot be procured, or that the expense of his attendance would be out of proportion to the amount involved in the action, or so great that the party desiring his attendance should not under the circumstances be required to incur the same. Idem.

(5) A copy of the order, with two days notice of the time and place of the examination, shall be served upon the opposite party, or his agent, who may appear and cross-examine the witness. Service of order.

(6) The rules of the Supreme Court, so far as the same are applicable, shall apply to every commission or order issued under this section. Rules S.C.O.

(7) The costs of the issue, transmission, execution and return of any commission issued or order made under this section shall be in the discretion of the judge, who may allow a sum in gross therefor, and the costs may be added to any other costs to be paid to the party entitled thereto, and may be recovered in like manner as the ordinary costs of an action. Costs of commission. 1950, c. 16, s. 97.

98. In an action for a debt or money demand of not more than \$25, and in case of a defence of set-off or of payment so far as it extends to \$25, the judge, on being satisfied of their general correctness, may receive the plaintiff's, defendant's or garnishee's books as evidence, and may also receive as evidence the affidavit of any party or witness resident out of the county, but may require the party or witness to answer written interrogatories upon oath. 1950, c. 16, s. 98. Admissibility of books of account.

99.—(1) In any action, the judge may in his discretion permit the evidence of any person out of the jurisdiction, or in some remote part of Ontario, to be given by affidavit upon such terms as to cross-examination, the answering of written interrogatories upon oath and the production of books and papers for inspection and otherwise as may be deemed necessary. When evidence may be given by affidavit.

Costs occasioned by objection to affidavit evidence.

(2) Where in the opinion of the judge expense is unnecessarily incurred by reason of any objection of either party to the reception of affidavit evidence or by cross-examination he may order that party to pay the costs of both parties occasioned by the objection. 1950, c. 16, s. 99.

Who may act as agents at trial.

100. A barrister or solicitor, or any other person not prohibited by the judge, may appear at the trial or hearing of an action as agent for any party thereto. 1950, c. 16, s. 100.

Judge may give judgment instanter, or postpone judgment.

101. The judge shall, in court, openly, and as soon as may be after the trial, pronounce his decision; but if he is not then prepared to pronounce a decision he may postpone it until it is convenient for him to give it, and he shall then send it to the clerk, who shall forthwith enter the judgment and by registered post notify the parties or their agents thereof. 1950, c. 16, s. 101.

Order as to payment.

102.—(1) The judge may order the times and the proportions in which any sum and costs recovered by judgment shall be paid, having regard to section 116.

Execution not to issue for 15 days after judgment.

(2) Unless otherwise ordered, execution shall not issue within 15 days after the entry of judgment, but the judge may order the amount of the judgment or any instalment thereof to be paid into court. 1950, c. 16, s. 102.

Judge's authority as to costs.

103.—(1) Unless otherwise provided, the costs of and incidental to all actions shall be in the discretion of the judge, who shall have full power to determine by whom and to what extent costs shall be paid.

Costs to abide event except by order.

(2) If the judge does not make an order as to costs they shall abide the event of the action.

Allowance to defendant for attendance.

(3) Where the plaintiff does not appear or does not prove his claim, the judge may award to the defendant a sum for his trouble and attendance not exceeding what he would be entitled to if a witness on his own behalf, to be recovered by execution.

Costs when action fails for want of jurisdiction.

(4) Where the plaintiff fails to recover judgment by reason of the court not having jurisdiction, the judge shall nevertheless have the power conferred by subsection 1, and the recovery of the costs awarded may be enforced by the same remedies by which costs of proceedings within the proper competence of the court are recoverable. 1950, c. 16, s. 103.

104.—(1) Where in an action for more than \$100 which is contested as to liability or quantum, and in the cases mentioned in clauses *b* and *c* of section 108, a counsel or solicitor has been employed by the successful party in the conduct of the cause or defence, the judge may direct that a sum of \$5, to be increased according to the difficulty and importance of the case to not more than \$40, or if the case occupies more than one day, to not more than \$50, be allowed to the successful party and it shall be added to the costs.

Counsel fee,
where action
contested;

(2) Where in an assessment of damages upon which the defendant does not appear personally or by counsel and in which judgment is given for more than \$100, a counsel or solicitor has been employed by the plaintiff, the judge may direct that a sum of \$5, to be increased according to the difficulty and importance of the case to not more than \$25, be allowed to the plaintiff and it shall be added to the costs.

where
assessment
uncontested ;

(3) Where any party applies for and obtains an adjournment in an action involving more than \$100 which is contested as to liability or quantum, the presiding judge may, if he is of opinion that counsel for any of the other parties has been unduly inconvenienced by the adjournment, award him a counsel fee of \$10. 1950, c. 16, s. 104.

where
adjourn-
ment.

105. Where the defendant having disputed the plaintiff's claim, afterwards and before the opening of the court, confesses judgment or pays the claim so short a time before the sittings of the court that the plaintiff cannot in the ordinary way be notified thereof, and without such notice the plaintiff *bona fide* and reasonably incurs expenses in procuring witnesses or in attending at court, the judge may order the defendant to pay such costs or such portion thereof as to him may seem just. 1950, c. 16, s. 105.

Costs of
witnesses
in certain
cases.

NEW TRIALS; APPEALS

106.—(1) Upon application made within 14 days after the trial, or where the decision is not given at the trial after the mailing of the notice of the decision to the party applying, and upon good grounds being shown, the judge, after affording the other parties to the action an opportunity to be heard, may grant a new trial upon such terms as he thinks proper.

New trial.

(2) If reasonable excuse for the delay is shown to the satisfaction of the judge, the application may be made at any time within 14 days after the expiration of the first-mentioned 14 days.

Extending
time for
application.

Where personal service not effected.

(3) Where the summons has not been personally served the application may be made at any time within 14 days after the judgment has come to the knowledge of the defendant.

Judgment on application for new trial.

(4) Instead of granting a new trial, the judge may pronounce the judgment which in his opinion ought to have been pronounced at the trial, and may order judgment to be entered accordingly.

Stay of proceedings.

(5) Either upon the application or upon granting a new trial the judge may make such order staying proceedings as he deems proper. 1950, c. 16, s. 106.

Parties may agree not to appeal.

107. An appeal shall not lie if, before the commencement of the trial, there is filed with the clerk an agreement in writing not to appeal, signed by the parties or their agents, and the judge shall note in his minutes whether the agreement was so filed or not, and the minutes shall be conclusive evidence upon that point. 1950, c. 16, s. 107.

Appeals to Court of Appeal.

108. Subject to section 107 an appeal shall lie to the Court of Appeal from the decision of the judge at or after the trial or upon an application for a new trial, except in cases where a new trial has been granted,

- (a) in an action or garnishee proceeding where the sum in dispute exceeds \$100, exclusive of costs;
- (b) in interpleader where the money or the value of the goods or chattels claimed or proceeds thereof exceed \$100, or where the damages claimed by or awarded to either party against the other or against a bailiff exceeds the sum of \$60;
- (c) where the parties consent to an appeal; or
- (d) where the effect of the decision is to determine that any general assessment made by a mutual insurance company is invalid; but the company, unless the Court of Appeal otherwise directs, shall pay the respondent's costs of the appeal between solicitor and client on the county court scale in any event. 1950, c. 16, s. 108.

Appeal where counterclaim.

109. Where a claim and counterclaim arise out of the same transaction or occurrence and an appeal is brought from the judgment upon either, the judgment upon both shall be subject to review by the court. 1950, c. 16, s. 109.

Agents for service where right to appeal.

110.—(1) Where an appeal lies, each party shall, before or at the trial, leave with the clerk a memorandum in writing

of the name and place of abode of some person resident within the county town upon whom the notice of appeal, and all other papers thereafter requiring service, may be served for him, and service upon such person, or, in his absence, at his place of abode, shall be sufficient, and, in the event of failure to leave such memorandum, all papers requiring service upon the party so failing may be served upon the clerk, or left at his office, and the clerk shall forthwith send, by registered post, all papers so served upon him, to the person entitled thereto.

(2) This section shall not apply to a provisional judicial district. 1950, c. 16, s. 110. Case of judicial district.

111. The clerk shall, at the request of the appellant or his agent, certify under his hand to the Registrar of the Supreme Court at Osgoode Hall, Toronto, the summons with all notices endorsed thereon, the claim, and any notice of defence, the evidence and all objections and exceptions thereto, and all motions or orders made, granted, or refused therein, together with such notes of the judge's charge as may have been made, the decision when in writing, or the notes thereof, and all affidavits and other papers in the action, and shall furnish to the parties, when required so to do, copies of the proceedings so certified, or such part thereof as may be required, and for every copy he shall be entitled to receive five cents for every one hundred words. 1950, c. 16, s. 111. Certified proceedings, etc., to be furnished by clerk.

112.—(1) The appeal shall be made in the time and manner prescribed by the rules of court and shall be heard and determined by one justice of appeal. Appeal, when and how made.

(2) After the appeal has been set down to be heard, the execution of the judgment appealed from shall be stayed pending the appeal, unless otherwise ordered by a judge of the Supreme Court. 1950, c. 16, s. 112. Stay of proceedings.

113. On an appeal to the Court of Appeal under this Act, the Court of Appeal shall have the same powers and duties as in an appeal coming before it under *The County Courts Act* and the practice and procedure applicable thereto shall *mutatis mutandis* apply to appeals under this Act. 1950, c. 16, s. 113. Powers and duties of Court of Appeal. Rev. Stat., c. 75.

114. The costs taxable between party and party of and incidental to an appeal shall be the actual disbursements, and no greater amount over and above actual disbursements than \$25 inclusive of counsel fee, and the costs of an appeal between solicitor and client shall be taxable on the county court scale. 1950, c. 16, s. 114. Taxable costs on appeal.

JUDGMENTS; EXECUTIONS; TRANSCRIPTS

When money
not paid
pursuant
to order,
execution
to issue.

115.—(1) Where the judge gives judgment or makes an order for the payment of money and default is made in payment of the whole or of any part thereof, the party in whose favour the order has been made shall be entitled to execution against the goods and chattels and, subject to section 125, the land of the party in default.

Form of
execution.

(2) The clerk, at the request of the party prosecuting the judgment or order, shall issue an execution to a bailiff of the court, or to a bailiff of any other court within the county, who by virtue thereof shall levy by distress and sale of the goods and chattels of the party in default such sum and costs, with interest thereon from the date of the order or of the entry of the judgment, as have been ordered to be paid and remain due, and shall pay the same over to the clerk.

Jurisdiction
of bailiff.

(3) The bailiff of any division court shall have jurisdiction throughout the county to enforce execution and levy by distress and sale of the goods and chattels of the debtor the amount of any judgment and costs and to carry out all other process and proceedings to enforce payment of the judgment, and where the limits of a division court include parts of two counties such jurisdiction shall apply throughout both of such counties, provided that where a bailiff goes outside the limits of the division for which he is appointed under this subsection he shall not be entitled to any mileage allowance in respect of travelling outside of such division. 1950, c. 16, s. 115.

Execution
not to be
postponed
for more
than 50
days.

116. Except where a new trial is granted, the issue of execution shall not be postponed for more than 50 days from the service of the summons, without the consent of the party entitled thereto; but if it is proved to the satisfaction of the judge that a party is unable, from sickness or other cause, to pay the debt or damages recovered against him, or any instalment thereof ordered to be paid, or that for any other reason the issue of execution should be further postponed, the judge may stay the judgment, order or execution for such time and on such terms as he thinks fit, and so from time to time until it is proved that the cause of disability has ceased. 1950, c. 16, s. 116.

Cross
judgments
may be
set off.

117. If there are cross judgments between the parties, the party who has obtained judgment for the larger sum shall have execution for the excess and satisfaction for the remainder, and also satisfaction on the judgment for the smaller sum shall be entered; and if both sums are equal, satisfaction shall be entered upon both judgments. 1950, c. 16, s. 117.

118. Except in actions brought under section 65, an execution or attachment shall not be executed out of the limits of the county over which the judge of the court from which the same issues has jurisdiction. 1950, c. 16, s. 118.

Writs of execution, where to be executed.

119. Where the party against whom an execution has been issued pays or tenders to the clerk or to the bailiff, before an actual sale of his goods and chattels, the amount to be levied or so much thereof as the party in whose favour the execution has issued agrees to accept in full of his debt, together with the fees to be levied, the execution shall thereupon be superseded, and the bailiff shall withdraw from possession. 1950, c. 16, s. 119.

Effect of payment of execution before sale.

120.—(1) The clerk, immediately after a return of *nulla bona* has been made to an execution issued on a transcript of judgment, shall forward by registered post to the plaintiff and to the clerk who issued the transcript a notice informing them of the date at which the execution issued, the date at which it was returned by the bailiff, and the return made.

Notice to plaintiff of *nulla bona* return.

(2) The clerk shall file among the papers in the action the post-office certificate of registration, and the absence from amongst the papers of the certificate shall be *prima facie* evidence against the clerk that the notice was not forwarded. 1950, c. 16, s. 120.

Registration certificate to be filed.

121. Where a memorandum of the amount of a judgment or execution or a certificate of a claim within the jurisdiction of a division court is filed with a sheriff under *The Creditors' Relief Act*, and the amount is not paid in full, and the sheriff is unable to make the money thereon, the creditor may obtain from the sheriff a return according to the fact and file the same with the clerk of the court in which the judgment was recovered, or, in the case of a certificate of a claim, with the clerk of the court of the division where the cause of action arose, or the debtor, or one of the debtors, if more than one, resides, and the clerk shall enter the return in his procedure book, and in the latter case the claim shall thereupon become a judgment of the court for the unpaid balance due thereon appearing by the return, and may be enforced in the same manner as a judgment of the division court. 1950, c. 16, s. 121.

Enforcing claims under Rev. Stat., c. 78 in division courts.

122. In the case of the death of either or both of the parties to a judgment, the party in whose favour the judgment has

Revivor of judgment in case of death of party.

been entered, or his personal representative in case of his death, may in the prescribed form revive the judgment against the other party, or his personal representative in case of his death, and may issue execution thereon. 1950, c. 16, s. 122.

Execution,
when dated
and
returnable.

123.—(1) Every execution against goods shall bear the date of its issue and shall be returnable immediately after the execution thereof, and, if unexecuted shall remain in force for three months, unless renewed, but may be renewed from time to time in the prescribed manner by the clerk at the instance of the execution creditor for six months from the date of the renewal.

Priority of
execution.

(2) The execution so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof to the bailiff. 1950, c. 16, s. 123.

Judge may
order an
execution
to issue
before
regular day.

124. Where the judge is satisfied by the oath of the execution creditor or by other testimony that he will be in danger of losing the amount of the judgment if compelled to wait until the day appointed for the payment thereof before an execution can issue, the judge may order an execution to issue at such time as he may deem just. 1950, c. 16, s. 124.

Executions
against
lands.

125.—(1) Where the sum remaining unsatisfied on a judgment amounts to \$40 or upwards, the judgment creditor shall be entitled to an execution against the land of the judgment debtor, and the clerk, at the request of the party prosecuting the judgment, shall issue an execution against the land of the judgment debtor directed to the sheriff of any county.

Effect of
execution.

(2) The execution shall have the same force and effect as an execution issued from a county court.

Notice
to debtor.

(3) Where an execution against lands has been placed in the hands of the sheriff he shall give notice thereof to the judgment debtor by registered letter addressed to him at his present or last known residence.

Sheriff's
return to be
made to
clerk.

(4) The sheriff shall make a return thereof and pay any money made thereon to the clerk of the court out of which the execution issued.

Further
proceedings
by execution
creditor.

(5) Until the judgment is fully satisfied, the execution creditor may pursue the same remedy for the recovery thereof as if the judgment had been obtained in the county court.

Duration
and renewal
of writ.

(6) The writ, if unexecuted, shall remain in force for three years only from its issue unless renewed, but may be renewed from time to time in the prescribed manner by the clerk at

the instance of the execution creditor for three years from the date of the renewal.

(7) The execution may be renewed by being marked on the margin with a memorandum signed by the clerk stating the day, month and year of the renewal, and a writ so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof to the sheriff.

Formal
effect of
renewal.

(8) The production of an execution purporting to be marked with the memorandum shall be *prima facie* evidence of its having been renewed.

Evidence of
renewal.

(9) The sheriff shall be entitled to the same fees as upon a writ of execution against land issued from a county court.

Fees on
writ against
lands.

(10) Where land is on hand for want of buyers a sheriff to whom the execution is directed may endorse thereon a return of "land on hand for want of buyers" and shall return a certificate of the endorsement to the clerk of the division court from whose office the execution issued in lieu of the writ, and the endorsement and the certificate so returned shall be deemed a return of the writ, and thereupon a writ of *venditioni exponas* may be issued by the clerk for the sale of the land and the original execution shall remain in force for the residue. 1950, c. 16, s. 125.

Certificate
in lieu of
execution.

126. The bailiff, after making a seizure under an execution against goods, shall endorse thereon the date of the seizure, and shall immediately and at least eight days before the time appointed for the sale put up at three of the most public places in the division where any property liable to be sold under the execution has been taken, public notice, signed by himself, of the time and place within the division when and where it will be exposed for sale, and the notice shall describe the property taken. 1950, c. 16, s. 126.

Bailiff after
seizure of
goods to
endorse date
of seizure
and give
notice of sale.

127. The property so taken shall not be sold until the expiration of eight days at least after the seizure thereof, unless upon the request in writing under the hand of the party whose property has been seized. 1950, c. 16, s. 127.

Goods not
to be sold
until eight
days after
seizure.

128. Where a bailiff has seized property under an execution or attachment and the action is afterwards settled between the parties, or the defendant makes an assignment for the general benefit of his creditors, the bailiff, until his fees and disbursements are fully satisfied, shall have a lien therefor upon so much of the property as will reasonably satisfy the same; but in the event of a dispute as to the

Bailiff's
fees when
action
settled.

proper amount of the fees and disbursements, the amount claimed therefor may be paid into court until the proper amount is certified by the judge, and on such payment into court the lien shall cease. 1950, c. 16, s. 128.

Transcript of
unsatisfied
judgment.

129.—(1) The clerk, upon the application of a person having an unsatisfied judgment in his favour, shall prepare a transcript of the judgment in the prescribed form, and shall send the same to the clerk of any other division court, whether in the same or in any other county, with the certificate at the foot thereof signed by him, sealed with the seal of the court, and addressed to the clerk of the court to whom it is to be sent, stating the amount unpaid upon the judgment, the date at which the same was recovered, and the post-office address of the person applying for the transcript, and the clerk to whom the certificate is addressed shall, on the receipt of the transcript and certificate, enter the transcript and the amount due on the judgment according to the certificate in a book to be kept in his office for the purpose, and all proceedings may be taken for enforcing the judgment in such last-mentioned court.

Proceedings
stayed.

(2) After a transcript has been issued under this section, no further proceedings shall be had in the court from which the transcript issued without an order from the judge, unless the person who obtained the transcript, or his agent, makes and files with the clerk an affidavit stating,

- (a) that the judgment remains unsatisfied in whole or in part;
- (b) that the execution issued out of the court to which the transcript was sent has been returned *nulla bona*, or that he believes the judgment debtor has not sufficient goods in the division of that court to satisfy the judgment,

and upon the affidavit being filed, the clerk may issue such other process as the applicant may be entitled to and may direct. 1950, c. 16, s. 129.

JUDGMENT SUMMONS; SHOW CAUSE SUMMONS

Judgment
summons.

130.—(1) A party having an unsatisfied judgment may procure from the court out of which execution might issue, if the judgment debtor resides or carries on business within the limits of that court, a judgment summons.

Judgment
summons,
issue of.

(2) Where a judgment debtor resides or carries on business within the limits of a city where there are two or more division

courts having territorial jurisdiction within the limits of the city, a judgment summons may issue out of any such court in which the judgment has been recovered or in which a transcript of judgment has been entered.

(3) Before the summons is issued the judgment creditor, ^{Affidavit required before judgment summons.} or his agent, shall make and file with the clerk an affidavit stating,

(a) that the judgment remains unsatisfied in whole or in part; and

(b) in the case of a second or subsequent summons that the deponent believes that the judgment debtor sought to be examined is able to pay the amount due in respect of the judgment or some part thereof, or that he has rendered himself liable to be committed to jail under this Act.

(4) The summons shall be served personally upon the judgment debtor at least eight days before the return day, ^{Examination of judgment debtor.} and if he appears he may be examined upon oath as to any and what debts are owing to him and touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability which formed the subject of the action, and as to the means and expectation he then had, and as to the property and means he still has of discharging the judgment debt, and as to the disposal he has made of any property.

(5) The party obtaining the summons and all witnesses ^{Examination of witnesses.} whom the judge thinks requisite may be examined upon oath, touching the inquiries.

(6) The examination shall not be held in open court unless ^{Place of examination.} the judge so directs.

(7) After the examination or upon written consent signed ^{Order as to payment.} by the judgment debtor or his solicitor the judge may make such order as to payment of the judgment and as to the time and manner thereof as he deems proper.

(8) The costs of the summons and of all proceedings ^{Costs.} thereon shall be costs in the action, unless the judge otherwise directs.

(9) If, after the examination, the judge dismisses the ^{Party examined and discharged to be again summoned.} summons, no further judgment summons shall issue out of the same court against the judgment debtor at the suit of

the same or any other creditor for a period of six months except upon an affidavit satisfying the judge that since the examination the party has acquired the means of paying or that he did not then make a full disclosure of his estate, effects and debts upon the examination. 1950, c. 16, s. 130.

Show cause
summons.

131.—(1) A party who has examined a judgment debtor under a judgment summons may procure a show cause summons from the court out of which the judgment summons issued where the judgment creditor or his agent makes and files with the clerk of the court an affidavit deposing,

- (a) the particulars of the judgment and the amount thereof that remains unsatisfied;
- (b) the particulars of the examination upon the judgment summons and of the order for payment that was made; and
- (c) that the judgment debtor is in default under the order for a period of not less than 14 days and the particulars thereof.

Service.

(2) The summons shall be served personally upon the judgment debtor at least eight days before the return day and if he appears he may be examined upon oath as to his default under the order for payment.

Determina-
tion re
default.

(3) At the hearing the judge shall determine whether the default under the order for payment has been wilful.

Where
default
wilful.

(4) Where the judge finds that the default has been wilful he may commit the judgment debtor under section 132 for contempt of court.

Where
default not
wilful.

(5) Where the judge finds that the default was not wilful the judgment debtor may be examined as upon a judgment summons and the judge may make an order accordingly. 1950, c. 16, s. 131.

When
judgment
debtor may
be com-
mitted to
jail.

132. If the party summoned,

- (a) does not attend as required by the summons, or at any subsequent date to which the hearing or examination is adjourned, or give a sufficient reason for not attending; or
- (b) attends and refuses to be sworn or to answer such questions as in the opinion of the judge are proper,

or, if it appears to the judge, by the examination of the party or by other evidence, that he,

- (c) obtained credit from the judgment creditor or incurred the debt or liability under false pretences, or by means of fraud or breach of trust; or
- (d) has made or caused to be made any gift, delivery or transfer of any property, or has removed or concealed the same with intent to defraud his creditors or any of them; or
- (e) had, when or since judgment was obtained against him, sufficient means and ability to pay the debt or damages or costs recovered against him, either altogether or by the instalments which the court, in which the judgment was obtained, ordered, without depriving himself or his family of the means of living, and that he has wilfully refused or neglected to make payment as ordered,

the judge may order him to be committed to the common jail of the county in which he resides or carries on business, for any period not exceeding 40 days. 1950, c. 16, s. 132.

133. A party failing to attend in answer to a judgment summons or show cause summons shall not be liable to be committed for the default, unless the judge is satisfied that his non-attendance is wilful. 1950, c. 16, s. 133.

134.—(1) Where a judge has ordered a judgment debtor to be committed to jail, the order shall be enforced by the bailiff unless the judge directs that the judgment debtor appear before him at a named time and place to explain his contempt in which case notice thereof shall be sent to the judgment debtor by registered post.

(2) Where the judgment debtor appears to explain his contempt,

- (a) if the judge is of opinion that the default was wilful he shall order the bailiff to enforce the warrant of commitment; and
- (b) if the judge is of opinion that the default was not wilful he shall order the judgment debtor to attend for examination at the next sittings of the court to be held for the hearing of judgment summonses and in the event that the judgment debtor does not so

attend the judge presiding at the sittings may order that he be forthwith committed to jail.

Non-appearance to explain contempt.

(3) Where the judgment debtor does not appear at the time and place named in the notice, the judge may direct that the warrant of commitment be enforced. 1950, c. 16, s. 134.

Costs allowed him in certain cases.

135. Where at the hearing upon a judgment summons or show cause summons it appears to the judge by the examination of the party, or otherwise, that he ought not to have been summoned, or if the judgment creditor or his agent does not appear, the judge may award the party summoned compensation for his trouble and attendance, to be recovered against the judgment creditor in the same manner as a judgment of the court. 1950, c. 16, s. 135.

Warrant of commitment.

136.—(1) Where an order of commitment has been made, the clerk shall issue, under the seal of the court, a warrant of commitment directed to the bailiff of any court within the county, upon which shall be endorsed a memorandum of the amount due under the judgment, and the bailiff may, by virtue of the warrant, take the party and deliver him to the keeper of the jail in which he has been directed to be imprisoned.

Constables, etc., to execute warrants.

(2) All constables and other peace officers within their respective jurisdictions shall aid in the execution of the warrant, and the keeper of the jail shall receive and keep the party therein until discharged under this Act, or otherwise, in due course of law. 1950, c. 16, s. 136.

When debtor in custody shall be discharged.

137. A party shall be discharged out of custody,

(a) by order of the judge; or

(b) at the expiration of the time prescribed in the warrant of commitment. 1950, c. 16, s. 137.

Alteration of order for payment;

138.—(1) The judge may rescind or alter the order for payment made upon a judgment summons or show cause summons and make any further or other order for the payment of the debt or damages recovered and costs forthwith, or by instalments, or in any other manner that he thinks reasonable.

order of commitment.

(2) The judge may rescind or alter or stay the operation of any order of commitment made by him, whether or not it has been acted on. 1950, c. 16, s. 138.

139.—(1) A party having an unsatisfied judgment against an incorporated company may issue a summons calling upon any officer of the company to attend before the judge and submit to examination as to the property and assets of the company and its dealings with them and if the person summoned fails to attend or to submit to examination he shall be liable to be committed to the common jail for any period not exceeding 40 days. Examination of officer of company.

(2) The summons shall be issued and served as nearly as may be in the same manner as in the case of a summons to a judgment debtor. 1950, c. 16, s. 139. Summons.

140. Imprisonment under this Act shall not extinguish the judgment or affect any order for payment which has been made or protect the judgment debtor from being summoned anew and imprisoned for any new fraud or other default rendering him liable to be imprisoned, or deprive the judgment creditor of the right to execution on his judgment. 1950, c. 16, s. 140. Debt not to be extinguished by imprisonment.

GARNISHEE PROCEEDINGS

141. For the purposes of garnishee proceedings under this Act, Interpretation.

- (a) money which is earned or owing, although not yet due or payable, is deemed to be "owing or accruing"; and
- (b) a reference to the amount of the judgment creditor's judgment or the plaintiff's claim or words of like import is deemed to include the amount of costs which have been incurred. 1950, c. 16, s. 141.

142.—(1) After judgment has been recovered, the clerk of the court in which the judgment was recovered or the clerk of the court to which the judgment has been transcribed shall, upon the filing of an affidavit as required by subsection 2, issue a direction to garnishee directing that all debts owing or accruing to the judgment debtor be attached to satisfy the judgment. Garnishee after judgment.

(2) Upon the making of the application there shall be filed with the clerk an affidavit stating, Material on application.

- (a) the date and amount of the judgment and the amount remaining unsatisfied;
- (b) that the deponent has reason to believe that the person sought to be named as garnishee,

(i) resides or carries on business in the county where the court is located, and

(ii) is indebted to the judgment debtor;

(c) where the judgment creditor intends to effect service of the direction by prepaid registered post, the address where the judgment debtor and garnishee reside or carry on business; and

(d) where the judgment creditor seeks to obtain a direction to garnishee in respect of wages and without exemption, that the debt was incurred for board or lodging or that the judgment debtor is an unmarried person having no one dependent upon him for support.

Preparation
of affidavit
and
direction.

(3) The direction to garnishee which shall be in the prescribed form and the affidavit used upon the application therefor shall be prepared,

(a) where the judgment creditor has a solicitor or agent, by the solicitor or agent; and

(b) where the judgment creditor has not a solicitor or agent, by the judgment creditor or, if he so requests, by the clerk of the court. 1950, c. 16, s. 142.

Notices
upon a
direction.

143. The following notices shall appear upon every direction to garnishee:

A

NOTICE TO GARNISHEE

Within ten days after the mailing to you or personal service upon you of this direction you are required to either,

(a) pay to the clerk of the court the amount owing or accruing from you to the judgment debtor or sufficient thereof to satisfy the judgment of the judgment creditor including costs; or

(b) file with the clerk of the court a statement signed by you stating,

(i) that at the time of the receipt by you of this direction to garnishee there was no money owing or accruing from you to the judgment debtor, and

(ii) where you rely upon a statutory or other defence or set-off, the particulars thereof.

Where an amount less than the amount of the judgment debt is paid to the clerk of the court, you are required to file with the clerk a statement signed by you in explanation thereof.

Upon your default in complying with the requirement above set out the judgment creditor may apply to the court for judgment against you, the garnishee, for an amount equal to the unpaid portion of his judgment against the judgment debtor and for his costs.

Where the amount sought to be garnished is wages this notice shall be read subject to the provisions of *The Wages Act*.

B

NOTICE TO JUDGMENT DEBTOR

At any time within ten days after the mailing to or personal service upon you of this direction you may dispute this direction to garnishee or any of the statements therein contained by filing with the clerk of the court a notice setting out the particulars of your dispute.

C

NOTICE TO ALL PARTIES TO THIS
PROCEEDING

Any of the parties to this proceeding, that is to say, any judgment creditor, judgment debtor or garnishee, may in writing request the clerk of the court to place it upon the trial list in order that the rights of any such party may be determined.

1950, c. 16, s. 143.

144.—(1) The direction to garnishee shall be served upon both the judgment debtor and the garnishee as soon as may be convenient, and in any event not more than 15 days after its issue. Service of direction to garnishee.

(2) Service may be effected,

Method of service.

(a) by personal service; or

(b) by registered post mailed to each or either of them at the address set out in the affidavit referred to in section 142. 1950, c. 16, s. 144.

145. Service upon the garnishee of the direction to garnishee shall have the effect, subject to the rights of other persons, of attaching and binding in his hands all debts then owing or accruing from him to the judgment debtor and payment by the garnishee into court of the debt so attached to the extent to which the judgment is unsatisfied shall be to that extent a discharge of such debt. 1950, c. 16, s. 145. Effect of service.

146. Subject to any request for a hearing by a judge, money paid into court by a garnishee pursuant to a direction to garnishee shall, upon the filing with the clerk of an affidavit Payment out.

proving service upon the judgment debtor of the direction to garnishee, be paid out to the judgment creditor but no such payment to the judgment creditor shall be made until 15 days after the date of such service. 1950, c. 16, s. 146.

Payment to
any but
primary
creditor void.

147. Payment by the garnishee after service on him of the direction to garnishee, otherwise than into court, except by leave of the judge, shall, to the extent of the judgment creditor's claim and costs, be void, and the garnishee shall be liable to again make payment, to the extent of the judgment creditor's claim, unless the judge otherwise orders. 1950, c. 16, s. 147.

Hearing
required.

148.—(1) Where any party requests the clerk in writing to place the proceeding upon the trial list, the clerk shall place it upon the list for the first court day in respect of which notice as herein required may be given and at least 10 days prior to such day shall mail notice thereof by prepaid registered post to each of the parties to the proceeding.

Disposition
at hearing.

(2) Upon the hearing, the judge shall determine the matter in a summary manner and make such order as he deems fit and where the garnishee has defaulted under the notice lettered A set out in section 143 he may give judgment in favour of the judgment creditor against the garnishee.

Defences of
garnishee.

(3) Upon a hearing, in determining any question of liability as between the judgment debtor and the garnishee, the judge shall have regard to any statutory or other defence or set-off which has been set up by the garnishee. 1950, c. 16, s. 148.

Adverse
claims.

149. Where a person other than the judgment creditor or judgment debtor claims to be entitled to the debt owing or accruing from the garnishee or any part thereof by assignment or otherwise, the judge, after notice to all persons interested, may inquire into and decide upon the claim, and where there is more than one claim decide upon the priority in which the respective claims are entitled to rank on the debt as the justice of the case may require. 1950, c. 16, s. 149.

Costs where
garnishee
unsuccessful.

150. Where a direction to garnishee has been issued and no moneys are realized thereon the costs thereof shall not be costs against the judgment debtor unless the judge, who may give his direction upon an *ex parte* application, otherwise directs. 1950, c. 16, s. 150.

Garnishee
before
judgment.

151.—(1) Where a judgment has not been recovered a plaintiff in an action in which a debt or money demand summons may be issued may cause to be issued out of the

court of the division in which the garnishees, or one of them if they are joint garnishees, reside or carry on business, a garnishee summons with the particulars of his claim against the defendant with reasonable certainty and detail attached thereto or endorsed thereon.

(2) As between the plaintiff and the defendant the garnishee summons shall be deemed a debt or money demand summons, and the provisions of this Act applicable to a debt or money demand summons and proceedings thereon shall apply. Summons to be deemed debt or money demand summons.

(3) A copy of the garnishee summons and particulars shall be served on the defendant and on the garnishee in the manner provided for the service of a summons in other actions. 1950, c. 16, s. 151. Service of summons.

152. A garnishee summons shall be in the same form as a summons to a defendant but, Form of garnishee summons.

(a) the name of the garnishee shall appear in the style of cause; and

(b) the following notice shall appear thereon:

NOTICE TO GARNISHEE

Within ten days of the service upon you of this summons you are required to either,

- (a) pay to the clerk of the court the amount owing or accruing from you to the defendant or sufficient thereof to satisfy the claim of the plaintiff including costs; or
- (b) file with the clerk of the court a statement signed by you stating,
 - (i) that at the time of the receipt by you of this summons there was no money owing or accruing from you to the defendant, and
 - (ii) where you rely upon a statutory or other defence or set-off, the particulars thereof.

Where an amount less than the amount of the judgment debt is paid to the clerk of the court, you are required to file with the clerk a statement signed by you in explanation thereof.

Upon your default in complying with the requirements above set out the plaintiff may apply to the court for judgment against you, the garnishee, for an amount equal to the unpaid portion of any judgment he may recover in this action against the defendant and for his costs.

1950, c. 16, s. 152.

Effect of
summons.

153. Service upon the garnishee of a garnishee summons shall have the same effect and consequence as service of a direction to garnishee. 1950, c. 16, s. 153.

Judgment
against
garnishee.

154.—(1) Where judgment is obtained against the defendant under sections 88, 89 or 90, or is obtained at the trial, or where judgment is not then given, on proof of the service on the defendant of a copy of the garnishee summons and particulars, and of the debt due and owing by the defendant, the judge, on proof of the amount owing or accruing due to the defendant from the garnishee, may give judgment against the garnishee in the prescribed form for the amount so owing or accruing from him or sufficient thereof to satisfy the claim of the plaintiff and costs, which sum the garnishee shall pay into court towards the satisfaction of the claim and costs, and, in default, execution may issue therefor, if due, or as it becomes due, or at such later period as the judge may order.

Hearing of
garnishee.

(2) Where the garnishee in a statement signed by him and filed with the clerk of the court sets up a statutory or other defence or set-off, he shall be given notice of a hearing at which he may furnish proof of such defence or set-off before judgment is given against him. 1950, c. 16, s. 154.

Adverse
claims.

155. Where a person other than the plaintiff or defendant claims to be entitled to the debt owing or accruing from the garnishee or any part thereof by assignment or otherwise, the judge, after notice to all persons interested, may inquire into and decide upon the claim and, where there is more than one claim, decide upon the priority in which the respective claims are entitled to rank on the debt as the justice of the case may require. 1950, c. 16, s. 155.

CONSOLIDATION ORDERS

Application
for consoli-
dation order.

156.—(1) A judgment debtor against whom more than one division court judgment remains unsatisfied in whole or in part may apply to the judge of the court of the division in which he resides for a consolidation order.

Material on
application.

(2) Upon the application, the judgment debtor shall file his own affidavit setting forth,

- (a) the names and addresses of the creditors who have obtained judgment against him in a division court, the date, amount and other particulars of each judgment, and the amount that he owes to each such judgment creditor;

- (b) the amount of his income from all sources, naming them;
- (c) his business or occupation, and the address of his employer;
- (d) a statement of his family or like obligations and of any other relevant facts.

(3) Upon the application the judge may make a consolidation order *ex parte* or may give such directions as to notice as he deems fit. Disposition
ex parte or
upon notice.

(4) Before making a consolidation order the judge shall determine the average weekly income of the judgment debtor for the three-month period immediately prior to the making of the application, making all proper allowances where the occupation is of a seasonal nature and shall order the following amounts, calculated to the nearest dollar, to be paid into court under the consolidation order, subject always to any variation which, because of extenuating or other special circumstances, the judge may deem proper, Computa-
tion of
amounts.

- (a) fifteen per cent of the average weekly income where the average weekly income does not exceed \$30;
- (b) twenty per cent of the average weekly income where the average weekly income exceeds \$30 and does not exceed \$40;
- (c) twenty-five per cent of the average weekly income where the average weekly income exceeds \$40 and does not exceed \$50;
- (d) thirty per cent of the average weekly income where the average weekly income exceeds \$50.

(5) A consolidation order shall set out,

Particulars
of order.

- (a) a list of the division court judgments outstanding against the judgment debtor indicating in each case the date, court and amount and the amount still outstanding;
- (b) the amounts to be paid into court by the judgment debtor under the consolidation order; and
- (c) the times of such payments. 1950, c. 16, s. 156.

Filing order
and copies.

157.—(1) The original consolidation order shall be filed with the clerk of the court in which it is made and a copy thereof, certified by such clerk, may be filed by the judgment debtor in any other division court.

Consolidation account.

(2) Upon the filing of the original consolidation order the clerk shall open a consolidation account in the name of the judgment debtor and shall credit thereto all payments made under the consolidation order. 1950, c. 16, s. 157.

Objection
by creditor.

158.—(1) Where any judgment creditor objects to the amount directed to be paid or to any other judgment creditor being included in the consolidation order, he may apply to the judge for an appointment to determine the matter.

Judge's
deter-
mination.

(2) Notice of the appointment shall be mailed by prepaid registered post to such persons as the judge may direct, and upon the appointment the judge shall deal with the matter in a summary manner, and his determination shall be final. 1950, c. 16, s. 158.

Judgment
after order.

159. Where any person obtains a judgment after the date of the consolidation order, he may deliver to the clerk of the court in charge of the consolidation order a notice of his judgment and his name shall forthwith be added to the consolidation order, and he shall thereafter share in the distribution under the consolidation order. 1950, c. 16, s. 159.

Stay of pro-
ceedings.

160. A judgment debtor in respect of whom a consolidation order has been made may, either before default has occurred or not later than the tenth day after default has occurred, apply to the judge for a stay of proceedings and upon notice of the hearing being mailed to all judgment creditors, or such of them as the judge may direct, by registered post, the judge shall hear the application and may by order grant such stay of proceedings as he deems fit or may dismiss the application. 1950, c. 16, s. 160.

Effect of
order.

161.—(1) Subject to subsection 2, no garnishee summons and no proceedings subsequent to judgment shall be taken or continued against the judgment debtor named therein in a division court in which a consolidation order or a certified copy thereof is filed.

Default.

(2) Where a judgment debtor is in default under a consolidation order for a period of 20 days the consolidation order shall, subject to any order under section 160 which may have been made prior to such date, be *ipso facto* terminated and any judgment creditor named in the consolidation

order may obtain from the clerk of the court in which the consolidation order was made a certificate of termination for the purpose of filing it in any court in which a copy of the consolidation order is filed. 1950, c. 16, s. 161.

162.—(1) All moneys paid to a consolidation account shall belong to the judgment creditors named in the consolidation order who shall share *pro rata* in the distribution of the moneys. ^{Property in moneys.}

(2) The clerk shall distribute the moneys paid into the consolidation account on account of the judgments at least once every three months, and at the time of distribution shall send to each creditor a distribution sheet showing the total amount paid, and the distribution thereof. ^{Distribution.}

(3) The distribution shall be on a *pro rata* basis according to the amount of each of the judgments filed with the clerk, or as nearly so as is practicable to the nearest dollar. ^{Basis of distribution.}

(4) The clerk shall be entitled to a fee of ten per cent of the amount paid in of which amount five per cent shall be charged to the judgment creditors and five per cent to the judgment debtor. ^{Fees of clerk.}

(5) The amount of excise stamps and postage shall be deducted from the amounts paid to the judgment creditors. ^{Excise stamps; postage.} 1950, c. 16, s. 162.

ABSCONDING DEBTORS

163. Where a person indebted in a sum not less than \$4, either for debt or damages arising upon a contract, and recoverable in or upon a judgment of a division court, ^{Warrant for attachment.}

- (a) absconds from Ontario, leaving personal property liable to seizure under execution for debt in any county; or
- (b) attempts to remove such personal property out of Ontario or from one county to another therein with intent to defraud; or
- (c) keeps concealed to avoid service of process,

the clerk of any division court, upon the application of the creditor, and upon his filing an affidavit in the prescribed form made by him, his agent or servant, shall issue a warrant in the prescribed form, directed to the bailiff of the court

from which the same issued, or to a constable of the county, commanding him to attach, seize, take and safely keep all the personal estate and effects of such person within the county, liable to seizure under execution for debt, or a sufficient part thereof to secure the sum mentioned in the warrant with costs, and to return the warrant forthwith to the court. 1950, c. 16, s. 163.

When county judge or justice of the peace may issue attachments, etc.

164. The affidavit mentioned in section 163 may be taken before a judge or a justice of the peace, and, upon the filing thereof with him, he may issue a warrant under his hand and seal in the form mentioned in section 163, and he shall forthwith transmit the affidavit to the clerk of the court within whose division the same was taken, to be by him filed. 1950, c. 16, s. 164.

Bailiff or constable to seize and make inventory.

165. Upon receipt of a warrant by the bailiff or constable, and upon being paid his lawful fees, including the fees for appraisement, he shall forthwith execute the warrant, and make a true inventory of all the estate and effects which he seizes and takes by virtue thereof, and shall, within 24 hours after seizure, call to his aid two freeholders, who, being first sworn by him to appraise the estate and effects seized, shall then appraise the same, and the bailiff or constable shall forthwith return the inventory attached to the appraisement to the clerk. 1950, c. 16, s. 165.

Proceedings may be continued in same court.

166. In an action commenced by attachment the proceedings may be conducted to judgment and execution in the court of the division within which the warrant issued. 1950, c. 16, s. 166.

Proceedings commenced before attachment.

167. Where proceedings have been commenced before the issue of an attachment they may be continued to judgment and execution in the court in which the proceedings were commenced. 1950, c. 16, s. 167.

Property attached may be sold under execution.

168. The property attached upon a warrant of attachment shall be liable to seizure and sale under the execution to be issued upon the judgment, and if the property was perishable and has been sold, the proceeds thereof shall be applied in satisfaction of the judgment. 1950, c. 16, s. 168.

Plaintiff not to divide cause of action.

169. A plaintiff shall not divide a cause of action into two or more actions for the purpose of bringing the same within the provisions of sections 163 to 168, but a plaintiff having a cause of action for which, but for the amount of the claim, an attachment might be issued may abandon the excess, and the judgment shall be a full discharge of all demands

in respect of the cause of action, and the entry of judgment shall be made accordingly. 1950, c. 16, s. 169.

170. Subject to *The Absconding Debtors Act*, where there are several attachments against a party, the proceeds of the property attached shall not be paid over to the attaching creditors according to priority, but shall be rateably distributed among such of them as obtain judgment against the debtor, in proportion to the amounts actually due upon their judgments, and no distribution shall take place until, in the opinion of the judge, reasonable time has been allowed to the creditors to proceed to judgment. 1950, c. 16, s. 170.

If several attachments issued.
Rev. Stat., c. 1.

171. Where the proceeds of the property are insufficient to satisfy the claims of all the attaching creditors, a creditor shall not be allowed to share, unless he sued out his attachment and gave notice thereof to the clerk of the court out of which the first attachment issued or into which it was returnable, within one month next after the issue of the first attachment. 1950, c. 16, s. 171.

If goods insufficient to satisfy claims of all attaching creditors.

172.—(1) Where property is attached under sections 163 to 171 by a constable, it shall be forthwith handed over to the bailiff of the court out of which the warrant of attachment issued, or into which it was made returnable.

Goods seized by constable to be delivered to bailiff.

(2) Property attached by a bailiff under sections 163 to 171, and the property delivered to him under subsection 1, shall remain in custody of the bailiff, and he shall keep it until disposed of according to law. 1950, c. 16, s. 172.

Custody of goods seized under attachment.

173.—(1) Where a person against whom an attachment has issued, or any person on his behalf, executes and files in the court to which the attachment, or first attachment if there are more than one, has been returned, or is returnable, a bond with good and sufficient sureties, to be approved by the judge or clerk, binding the obligors, jointly and severally, to the clerk, in double the appraised value of the property attached, with a condition that the debtor (naming him) will, whenever thereunto required by order of the judge, pay into court a sum sufficient to satisfy the claims of all creditors who may be entitled to share in the proceeds of the property or the value of the property attached, or will produce the property to satisfy the judgments, the clerk may supersede the attachment, and the property attached shall be restored.

On what terms goods attached may be restored.

(2) Subject to section 170, if, within one month after the property has been attached, the person against whom the attachment has issued, or some person on his behalf, does

Sale of goods if the debtor does not appear and give security.

not appear and give such bond, execution may issue as soon as judgment has been recovered and the property attached, or so much thereof as may be necessary to satisfy the judgment and costs, may be sold for the satisfaction thereof, or if the property has been previously sold as perishable so much of the proceeds thereof as may be necessary may be applied to satisfy the judgment and costs. 1950, c. 16, s. 173.

Proceedings
against
debtors
where pro-
cess not
previously
served.

174.—(1) Where a summons has not been served before the issue of a warrant of attachment, it may be served personally or by leaving a copy at the last place of abode or business of the defendant with any grown person residing there, or by leaving the copy at such place if no grown person be there found.

Costs.

(2) If it appears to the judge at the trial that the creditor who sued out an attachment had not reasonable or probable cause for taking the proceedings, the judge shall order that no costs be allowed to the creditor. 1950, c. 16, s. 174.

Perishable
goods, how
disposed of.
Rev. Stat.,
c. 1.

175. Subject to *The Absconding Debtors Act*, where perishable property has been attached, the bailiff who has the custody thereof, the same having been first appraised, may, at the request of the attaching creditor, expose and sell the same at public auction to the highest bidder, giving at least eight days notice at the office of the clerk and at two other public places within his division, of the time and place of sale, if the property attached will admit of being so long kept, otherwise he may sell the same at his discretion. 1950, c. 16, s. 175.

Creditors
may be
required to
indemnify
the
defendant.

176.—(1) It shall not be compulsory upon the bailiff or constable to attach, or upon the bailiff to sell perishable property until the attaching creditor has given a bond to the defendant, with good and sufficient sureties to the satisfaction of the bailiff, in double the amount of the appraised value of the property, conditioned that the attaching creditor will repay the value thereof, together with all costs and damages incurred in consequence of the attachment and sale in case judgment be not obtained by him, and the bond shall be filed with the clerk.

Application
of proceeds
of sale.

(2) The money made shall be paid over by the bailiff to the clerk, to be dealt with in the manner hereinbefore provided. 1950, c. 16, s. 176.

Enforcing
security
given
under Act.

177.—(1) A bond given in the course of any proceeding under this Act may be sued on in any division court of the county wherein the same was executed, notwithstanding that the penalty in the bond exceeded the sum of \$100.

(2) The bond shall be delivered to any person entitled to it, upon the order of the judge, to be enforced or cancelled as the case may require. 1950, c. 16, s. 177.

Delivery of
bond to
party
entitled.

CLAIMS OF LANDLORDS AND OTHERS WITH RESPECT TO
GOODS SEIZED

178. In this section and in sections 179 and 180,

Interpre-
tation.

- (a) "agent" means any person usually employed by the landlord in the letting of land or in the collection of the rents thereof, or specially authorized by writing under the hand of the landlord to act in any particular matter; and
- (b) "landlord" includes the person entitled to the immediate reversion of land, or, if it be held in joint tenancy, coparcenary or tenancy in common, any one of the persons entitled to the reversion. 1950, c. 16, s. 178.

179.—(1) Where a claim is made to or in respect of property or security taken in execution or attached under the process of a division court, or the proceeds or value thereof, by a landlord for rent, or by a person other than the party against whom the process issued, then, subject to *The Absconding Debtors Act*, upon application of the bailiff or officer charged with the execution of the process, either before or after an action has been brought against him, the clerk shall issue a summons calling before the court out of which the process issued, or the court for the division in which the seizure or attachment under the process was made, the party who issued the process and the person making the claim, and thereupon any action which has been brought in the Supreme Court or in any other court in respect of the claim, shall be stayed.

Adjustment
of claims of
landlords,
etc., to goods
seized in
execution.

Rev. Stat.,
c. 1.

(2) The court in which the action has been brought, or a judge thereof, on proof of the issue of the summons, and that the property or security was taken in execution or upon attachment, may order the party bringing the action to pay the costs of all proceedings had in the action after the issue of the summons out of the division court.

Costs.

(3) The judge shall adjudicate upon the claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as to him may seem just, and shall also adjudicate between the parties, or either of them, and the bailiff or officer in respect of any claim for damages arising

County
judge to
adjudicate
on claims.

out of the execution of the process by the bailiff or officer, although the amount of the damages claimed or awarded is beyond the jurisdiction of a division court, and may make such order in respect thereof, and of the costs of any proceedings as to him may seem just.

Enforcing order.

(4) The order may be enforced in like manner as an order made in an action.

New trial.

(5) The judge, upon the application of the execution or attaching creditor or the claimant, or the bailiff or officer, may grant a new trial as in other cases, and may in the meantime stay proceedings.

Where more than one execution or attachment has issued.

(6) Where the bailiff or officer has executions or attachments for different persons against the same property it shall not be necessary to make a separate application on each execution or attachment; but he may use the names of the execution or attaching creditors collectively, in the application, and the summons may issue in the name of the creditors as plaintiffs.

Rights of parties as to defence and as to costs.

(7) The parties and the bailiff or officer shall have the same rights of defence and counter claim, including in all cases the right and liability to costs, as would exist had an action, within the jurisdiction of the court, been brought to recover the damages. 1950, c. 16, s. 179.

Provisions in relation to rents due to landlords.

180.—(1) The landlord of a tenement in or upon which property is taken under an execution, may, by notice in writing, signed by himself or his agent, stating the terms of the holding and the rent payable, delivered to the bailiff or officer making the levy, claim any rent due and in arrear at the time of the taking in execution not exceeding the rent of four weeks where the tenement has been let by the week, and not exceeding the rent for two terms of payment where the tenement has been let for any other term less than a year, and not exceeding in any case the rent for one year.

Notice of claim for rent.

(2) Notice of the claim may be given at any time before the return of the process, notwithstanding that the property may in the meantime have been removed from the premises upon which it was seized and where the property of a tenant is sold within 10 days after seizure, the money realized shall remain in court until the expiration of the 10 days to answer the claim of the landlord, and where the money has been paid into court the notice may be directed to the clerk with like effect as if given to the bailiff or officer, before the sale of the property seized.

(3) The bailiff or officer making the levy shall also distrain for the amount of the rent claimed, and the costs of the distress, but shall not sell the property, or any part thereof, until after the expiration of eight days after the distress.

How the bailiff is to proceed.

(4) For every distress for rent in arrear the bailiff or officer shall be entitled to have as costs of the distress, instead of the fees allowed by this Act, the fees allowed by *The Costs of Distress Act*.

Fees of bailiff in such cases. Rev. Stat., c. 73.

(5) If any replevin is made of the property distrained, so much of the property taken under the execution shall be sold as will satisfy the money and costs for which the execution issued and the costs of the sale, and the surplus of the sale, if any, and the property so distrained shall be returned as in other cases of distress for rent and replevin.

Sale where replevin made.

(6) An execution creditor shall not have his debt satisfied out of the proceeds of the execution and distress, or of the execution only, where the tenant replevies, until the landlord who conforms to this Act has been paid the rent in arrear for the periods hereinbefore mentioned. 1950, c. 16, s. 180.

Priority of landlord's claim.

PARTNERSHIPS AND SPECIAL NAMES

181.—(1) In case of a debt or demand against two or more persons, partners in trade or otherwise jointly liable, who reside in different divisions, or of whom one or more cannot be found, one or more of such persons may be sued or served with process, and judgment may be obtained and execution issued against him or them, notwithstanding that others jointly liable have been sued or served without prejudice to the right of the person against whom execution issues to demand contribution from any other person jointly liable with him.

One or more of persons jointly liable may be sued.

(2) Where a judgment has been obtained against one or more of several partners under subsection 1, and the judge certifies that the demand proved was a partnership transaction, the bailiff may, under the execution, seize and sell the property of the firm, as well as that of any defendant who has been served.

Bailiff may seize property of firm on certificate of judge.

(3) Two or more persons claiming or being liable as co-partners may sue or be sued in the name of the firm of which such persons were co-partners at the time of the accruing of the cause of action.

Partners sued in name of firm.

(4) Where partners are sued in the name of the firm, the summons may be served on one or more of them or at

Service on partners.

the principal place within Ontario of the business of the partnership or upon any person having control of the partnership business there and, subject to subsections 6 and 7, such service shall be deemed good service upon the firm, and the affidavit of the service of the summons shall state the name of the person served.

Order to
furnish
names and
addresses.

(5) Any party may, at any time before or after judgment, apply for an order directing a statement of the names and addresses of the persons who are co-partners in any firm which is a party to the action by the firm name, to be furnished in such manner as the judge may direct.

When
partnership
dissolved.

(6) In the case of a partnership which to the knowledge of the plaintiff has been dissolved before action the summons shall be served upon every person within Ontario sought to be made liable.

Notice of
capacity in
which person
served.

(7) Where a summons is issued against a firm and is served as directed by this section, every person upon whom it is served shall be informed by notice given at the time of service whether he is served as a partner or as a person having control or management of the partnership business or in both characters, and in default of such notice the person served shall be deemed to be served as a partner.

Attachment
of debts
due by firm.

(8) Debts owing from a firm carrying on business within Ontario may be attached although one or more members of the firm may be resident out of Ontario, provided that some person having the control or management of the partnership business or a member of the firm within Ontario is served with the attaching order. 1950, c. 16, s. 181.

Execution
against
partners.

182.—(1) Where a judgment is against a firm, subject to section 183, execution may issue against the property of,

- (a) the partnership;
- (b) any person who has admitted in the notice of dispute or defence filed that he is a partner, or who has been adjudged a partner;
- (c) any person who has been individually served as a partner with a copy of the summons and who has not filed a notice of dispute or defence.

Leave to
issue
execution
against
other
members.

(2) If the party who has obtained a judgment claims to be entitled to issue execution against any other person as being a member of the firm, he may apply for leave to do so, and the judge may give such leave if the liability be not

disputed, or, if disputed, after the liability has been determined in such manner as he may direct. 1950, c. 16, s. 182.

183. Except as against the property of the partnership, a judgment against a firm shall not render liable, release, Effect of judgment against firm. or otherwise affect any member thereof who was out of Ontario when the summons was issued, and who has not entered a defence to the action, unless he has been made a party under section 85 or has been served within Ontario after the summons was issued. 1950, c. 16, s. 183.

184.—(1) Subject to *The Partnerships Registration Act*, a person, whether or not a British subject, and whether residing in or out of Ontario, carrying on business within Ontario under a name or style other than his own name, may sue and be sued in such name or style. Persons carrying on business in Ontario under another name. Rev. Stat., c. 271.

(2) Leave shall not be necessary to issue the summons. Leave not required.

(3) The summons may be served upon the person so carrying on business if he be within Ontario, or at his place of business within Ontario, or, if there are several such places at the place in or nearest to the county in which the cause of action arose, upon any person having the control or management of the business there, and such service shall be equivalent to personal service on the person so sued. Service of summons.

(4) The person upon whom the summons is served shall be informed by notice given at the time of service whether he is served as the person carrying on the business or as the person having the control or management of it or in both characters, and in default of such notice he shall be deemed to be served as the person carrying on the business. Notice of character in which person served.

(5) Any party may, at any time before or after judgment, apply for an order directing a statement of the name and address of the person who is, and of the person who at the time of the accruing of the cause of action was, carrying on business under such name or style to be furnished in such manner as the judge may direct. Procuring name and address of person carrying on business.

(6) The person so sued shall enter a dispute in his own name, but all subsequent proceedings shall continue in such name or style. Person served to appear in his own name.

(7) A person served as the person carrying on the business may enter a defence under protest, denying that he is the person so carrying on the business, but such defence Defence under protest.

shall not preclude the plaintiff from otherwise serving the person sued or from obtaining judgment in default of defence in the ordinary form by the person so sued.

When person served is not carrying on the business.

(8) Where a summons is served under subsection 3 on a person having the control or management of but not carrying on the business, a dispute by him shall not be necessary.

Enforcement of judgment, what property exigible.

(9) A judgment or order in the action may be enforced by execution against,

(a) the property of the person so sued, used or employed in or in connection with the business; and

(b) the property within Ontario of the person so sued if he has entered a defence in the action, or has been adjudged to be the person carrying on the business or has been personally served with the summons within Ontario and has failed to enter a defence.

Issuing execution against person alleged to be carrying on the business.

(10) If the person so sued has not entered a dispute or has not been personally served, or has not been adjudged to be the person carrying on the business, the plaintiff may apply for leave to issue execution against the person within Ontario whom the plaintiff alleges to be the person carrying on the business, and the judge may give such leave if the liability be not disputed, or, if disputed, after the liability has been determined in such manner as the judge may direct. 1950, c. 16, s. 184.

JURIES

When a jury may be required.

185.—(1) Either party may require a jury in any class of action where the amount sought to be recovered exceeds \$50.

Notice to clerk.

(2) Where the plaintiff requires a jury, he shall give notice thereof to the clerk one week before the sittings of the court at which the action is to be tried, and deposit with him the proper fees for the expenses attending the summoning of the jury; and where a claimant or a defendant requires a jury, he shall, within five days after the day of service of the summons on him, give to the clerk the like notice, and deposit with him the proper fees, and thereupon, in either case, a jury shall be summoned.

When action transferred.

(3) In an action transferred from one court to another, either party may require a jury to be summoned by giving to the clerk of the court to which the action has been transferred, three clear days before the sittings of the court at

which the case is to be tried, a notice requiring a jury to be summoned, and depositing with him the proper fees for the expenses attending the summoning of the jury. 1950, c. 16, s. 185.

186.—(1) Unless exempted by *The Jurors Act*, every person whose name appears on the last revised voters' list of a municipality partly or wholly within the division who resides therein, and whose name is marked "J", shall be liable to serve as a juror for the court of such division. Who liable to be jurors. Rev. Stat., c. 191.

(2) The jurors shall be residents of the division and shall be selected from the last revised voters' list of the municipalities partly or wholly within the division. From whom selected.

(3) Where there has been no previous selection of jurors the manner of selecting them shall be as follows: Manner of selection.

(a) The clerk shall begin with the name of the first qualified person on the list of the municipality and proceed with the selection by taking the names in rotation until the requisite number has been selected.

(b) Where there are several municipalities the clerk shall begin with the name of the first qualified person on the list of the municipality in which the court is held, taking one name from the list, and then shall take one name from each of the lists of the other municipalities in rotation, beginning with that list which contains the greatest number of names of qualified persons, and shall repeat the same process until the requisite number has been selected.

(4) Where there has been a previous selection of jurors the clerk shall proceed as provided by subsection 3, except that he shall begin where he left off at the next preceding selection, or in the case of a new list as nearly as may be at the place which corresponds with the place where he left off at the previous selection. Where there has been previous selection.

(5) If it appears to the judge that the cost of summoning a jury is excessive, by reason of the residences of the persons liable to be selected being in a distant portion of the division, he may direct the clerk to begin with the name of the first qualified person on the list of any municipality partly or wholly within the division, and proceed as in subsection 3. Where cost of summoning excessive.

(6) Where a municipality, partly or wholly within the division, is a party, and the jury would, if selected in ordinary a party. Where municipality is a party.

course, be composed of ratepayers of the municipality, the judge, upon the application of any party, may direct the clerk not to select any juror from the list of the municipality, or may before or at the trial direct that the issues shall be tried and damages be assessed without a jury.

Application
of section.

(7) This section shall not apply in a provisional judicial district. 1950, c. 16, s. 186.

Summoning
jurors.

187. Where a jury is required to be summoned, the clerk shall cause not less than 12 of the persons liable to serve as jurors to be summoned, and the summons shall be served at least two days before the court, either personally or by leaving the same with a grown-up person at the residence of the juror, and the summons shall be returned to the clerk with an affidavit of service of the bailiff serving the same. 1950, c. 16, s. 187.

Parties
entitled to
challenge.

188. Each party shall be entitled to challenge two jurors peremptorily and any juror for cause. 1950, c. 16, s. 188.

Penalty on
jurors dis-
obeying
summons.

189. A juror who, after being duly summoned, wilfully neglects or refuses to attend, shall be liable to a fine, in the discretion of the judge, of not more than \$4, which shall be levied and collected, with costs, by the same process as a judgment recovered in the court. 1950, c. 16, s. 189.

Judge's list
and jury
list.

190.—(1) Actions to be heard by the judge alone shall be set down in a list separate from the list of those to be tried by a jury, to be severally called "The Judge's List", and "The Jury List", and actions shall be set down in the order in which they were entered with the clerk.

Jury list to
be first.

(2) "The Jury List" shall be disposed of first, unless the judge otherwise directs. 1950, c. 16, s. 190.

Five jurors
to be em-
panelled,
etc.

191. Five jurors shall be empanelled and sworn to do justice between the parties whose cause they are required to try, according to the best of their skill and ability, and to give a true verdict according to the evidence, and the verdict of every jury shall be unanimous. 1950, c. 16, s. 191.

Judge may
call *tales*.

192.—(1) If the panel is exhausted, the judge may direct the clerk to summon from the body of the court a sufficient number of disinterested persons to make up a full jury, and any person so summoned may, saving all lawful exceptions and rights of challenge, act as a juror.

Judge may
order jury
to be em-
panelled to
try any
disputed
fact.

(2) Where the judge thinks it proper to have the action or any controverted fact tried by a jury, the clerk shall instantly return a jury of five disinterested persons present to try the same, and the judge may give judgment on the verdict of the jury. 1950, c. 16, s. 192.

193. If the judge is satisfied that a jury after having been out a reasonable time cannot agree upon their verdict, he may discharge them and adjourn the trial, and order the clerk to summon a new jury for the next sittings, unless the parties consent that the judge may give judgment on the evidence already taken, in which case he may give judgment accordingly. 1950, c. 16, s. 193.

194.—(1) In all cases of trial by jury the judge shall have power to determine, after hearing the whole evidence or the evidence adduced on behalf of the plaintiff alone, whether there is any evidence in support of the plaintiff's case which ought to be submitted to the jury, and if in his opinion there is no such evidence, he may then, or after verdict, if he has reserved his decision, direct a nonsuit or dismiss the action.

(2) The judge may direct the jury to answer any questions of fact stated to them by him and the jury shall answer them, and, subject to subsection 1, upon their answers the judge shall enter such judgment as in his opinion may be proper.

(3) The judge shall determine the law and direct the jury thereon.

(4) When in the opinion of the judge the action is one that ought to be tried without a jury, the judge shall have power to direct that the action be taken out of their hands.

(5) Where in the opinion of the judge the jury notice is given for the purpose of delay he may strike it out on a summary application. 1950, c. 16, s. 194.

195.—(1) The clerk shall pay each of the five jurors empanelled and sworn the sum of \$3, and the further sum of 10 cents per mile for every mile in excess of two miles necessarily travelled from his place of residence to the place at which the court is held, and to each of the jurors not empanelled, but who attend during the sittings of the court in which they have been summoned and who do not attend as witnesses or litigants, the sum of \$1.50, and the further sum of 10 cents per mile in excess of two miles necessarily travelled from his place of residence, but the judge shall have the power to increase or reduce the fee for the jurors not empanelled.

(2) Payments made under this section shall be certified to by the judge, and the treasurer of the county, or in the case of a provisional judicial district the Treasurer of Ontario, shall upon presentation of the certificate pay to the clerk the

amount which the certificate shows to have been paid to the jurors. 1950, c. 16, s. 195.

Fees for
jury fund.

196.—(1) There shall be paid to the clerk on every action originally entered in his court, in addition to all costs or jury fees payable,

(a) where the claim exceeds \$20 but does not exceed \$60—three cents;

(b) where the claim exceeds \$60 but does not exceed \$100—six cents;

(c) where the claim exceeds \$100—twenty-five cents,
and the same shall be taxed and allowed as costs in the cause.

Return.

(2) On or before the 15th day of January in every year, the clerk shall return to the treasurer of the county a statement under oath showing the number of actions originally entered in his court during the previous year, in which the claim exceeded \$20 but did not exceed \$60, the number in which the claim exceeded \$60 but did not exceed \$100, and the number in which the claim exceeded \$100.

Fees to be
paid to
county
treasurer.

(3) The clerk shall, with the statement, pay over to the treasurer the fees payable under this section; and the treasurer shall keep an account of all money so received by him under the head of "Division Court Jury Fund".

Other cities
and separate
towns.

(4) In the case of cities and towns separated from the county, the amounts paid in by the clerks and the amount paid by the county treasurer to the clerks for jury fees shall be taken into account in settling the proportion of the charges to be paid by the city or town towards the cost of administration of justice.

Provisional
judicial
district.

(5) This section shall not apply to a provisional judicial district. 1950, c. 16, s. 196.

GENERAL

Duties of
Inspector.

197.—(1) The inspector shall,

(a) make a personal inspection of every division court and of the books and papers thereof;

(b) see that the proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a correct manner, at a suitable time and in proper form and order, and that the papers and documents are properly classified and preserved;

- (c) see that the duties of the officers of the courts are efficiently performed and that the office is at all times duly attended by the clerk;
- (d) see that lawful fees only are taxed or allowed as costs;
- (e) see that proper security is furnished and maintained on behalf of every clerk and bailiff;
- (f) when authorized by the Lieutenant-Governor in Council so to do, direct that any papers or documents which it is unnecessary to preserve be destroyed; and
- (g) report upon all such matters to the Lieutenant-Governor.

(2) The Inspector, with the approval of the Lieutenant-Governor in Council, may delegate to any clerk or officer in his office any power or duty conferred or imposed upon the Inspector under this Act, and for such purpose every such person shall have and may exercise all the powers of the Inspector. 1950, c. 16, s. 197.

Delegation
of authority
by Inspector

198. Where the Inspector considers it expedient to institute an inquiry into the conduct of a clerk or bailiff he may require him and any other person to give evidence on oath, and for that purpose shall have the same power as any court has in civil cases to summon such officer or other person to attend as a witness, to enforce his attendance and to compel him to produce books and documents, and to give evidence. 1950, c. 16, s. 198.

Power of
Inspector
in making
inquiry into
conduct of
officers.

199. Every person who wilfully insults the judge or any officer of a division court during his sitting or attendance in court, or interrupts the proceedings of the court, or creates a disturbance within the court-room or within hearing of the court, shall be guilty of an offence and any bailiff or officer of the court may, by direction of the judge, take the offender into custody and bring him before the judge, and the judge may impose upon him a fine of not more than \$20, and in default of immediate payment may, by warrant under his hand and seal, commit the offender to the common jail of the county for a period of not more than one month, unless the fine and costs with the expense attending the commitment are sooner paid. 1950, c. 16, s. 199.

Contempt
of court.

200.—(1) Every person who interferes with a bailiff or officer or his deputy or assistant, while in the execution of his

Resisting
officers.

duty, or makes or attempts to rescue any property seized or attached under process of the court, shall be guilty of an offence and liable to a penalty of not more than \$20, to be recovered by order of the court or on summary conviction before a justice of the peace, and shall also be liable to be imprisoned, by order of the court or justice, for any term of not more than three months.

Arrest of offender.

(2) The bailiff or officer, or any peace officer, may take the offender into custody, with or without warrant and bring him before the court of justice. 1950, c. 16, s. 200.

Enforcing payment of fines.

201. A fine imposed by the judge under this Act may be enforced by his order in like manner as a judgment. 1950, c. 16, s. 201.

Distress not to be deemed unlawful or persons making it trespassers by reason of defect in proceedings.

202. A levy or distress by virtue of this Act shall not be deemed unlawful, or the person making the same be deemed a trespasser, on account of any defect or want of form in any proceeding relating thereto, nor shall the person levying or distraining be deemed a trespasser from the beginning, on account of any irregularity afterwards committed by him; but the person aggrieved by the irregularity may recover full satisfaction for the special damage sustained by him. 1950, c. 16, s. 202.

Where practice of the Supreme Court to apply.

203.—(1) In cases not expressly provided for by this Act or by the rules, the judge may, in his discretion, adopt and apply the general principles of practice in the Supreme Court to actions and proceedings in the division courts.

Limitations as to costs.

(2) Nothing herein contained shall authorize the taxation or allowance of costs to any officer of the court, other than those provided for by this Act, or in the tariff of fees. 1950, c. 16, s. 203.

Defects in form.

204. No proceedings shall be quashed or vacated for any matter of form. 1950, c. 16, s. 204.

Notices to be in writing.

205. Unless otherwise provided, every notice required by this Act shall be in writing. 1950, c. 16, s. 205.

Before whom affidavits may be sworn.

206.—(1) Affidavits may be sworn before a clerk or deputy clerk, or before a justice of the peace, notary public or commissioner for taking affidavits.

Affidavits sworn before agents not to be used.

(2) An affidavit, sworn before the agent of the party on whose behalf it was made, or before the clerk or partner of such agent, shall not be used. 1950, c. 16, s. 206.

207. Where a change in the date of a hearing or other proceeding is necessary because of failure to effect service or for any other reason, the clerk may change the date or dates appearing in any summons, judgment summons, subpoena or other notice or process. 1950, c. 16, s. 207.

Changing
date in
process.

208.—(1) The Lieutenant-Governor in Council may make rules and regulations,

Rules and
regulations.

- (a) prescribing the division courts which shall be maintained, the territorial limits of the divisions and the place within each division where the court office shall be located;
- (b) prescribing fees payable to the Crown and to clerks, bailiffs, appraisers, witnesses and for any other services performed under this Act;
- (c) regulating the sittings of the courts and providing for fixing the times and places of such sittings;
- (d) prescribing the duties of clerks and bailiffs and requiring clerks to furnish to judges information regarding sittings of the court;
- (e) prescribing the returns to be made and the information to be furnished by clerks and bailiffs;
- (f) prescribing forms;
- (g) providing for the service of summonses and other process issued out of division courts by prepaid post or otherwise and prescribing the manner of proving service and such other matters as may be necessary or incidental thereto;
- (h) providing for the continuation of courts where a union of counties is dissolved or a county is separated from a union of counties and for the continuation or transfer of actions and judgments therein;
- (i) prescribing and governing the security to be furnished by clerks and bailiffs for the due performance of their duties and, in connection therewith, providing for the Inspector to enter into agreements with any company authorized to carry on the business of fidelity insurance in Ontario;
- (j) regulating any matter relating to the practice and procedure of the courts, or to the duties of the officers thereof, or to the costs of proceedings therein; and

- (k) every other matter deemed expedient for better attaining the ends of justice, advancing the remedies of suitors and carrying into effect the provisions of this Act and of all other Acts respecting division courts.

Territorial limits.

(2) In prescribing the territorial limits of a division, the Lieutenant-Governor in Council may, where in his opinion the circumstances of the case so warrant,

- (a) include any area within the territorial limits of more than one division; and
- (b) include within the territorial limits of a division court, an area in an adjoining county. 1950, c. 16, s. 208.

PART II

APPLICABLE ONLY TO DISTRICTS

Who liable to serve as jurors.

Rev. Stat., c. 191.

209. Unless exempt under *The Jurors Act*, all male persons between 21 and 60 years of age who reside in the division, and who are subjects of His Majesty by birth or naturalization, may be summoned to serve as jurors at any division court. 1950, c. 16, s. 209.

Who to select jurors.

210. The clerk and a justice of the peace resident in the division, or in case there is no justice of the peace so resident, then a justice of the peace residing in an adjoining division, shall select the persons to serve as jurors for the trial of actions required to be tried by or before a jury. 1950, c. 16, s. 210.

Parties may agree that the judge shall try any matter not over \$800.

211.—(1) If the parties agree by writing signed by them to refer causes of action, claims and demands to a judge and that he may try and determine the same, the judge shall have power and jurisdiction so to do, if the subject matter in dispute does not exceed \$800 in amount, and is otherwise within the jurisdiction of a division court.

Submission to be made in duplicate.

(2) The agreement shall be in duplicate, and one of the duplicates shall be filed with the judge and the other with the clerk of the court in which the action is to be tried, and the court shall thereupon have jurisdiction in respect of the matter referred.

May be filed and proceedings thereon had to judgment in the division court.

(3) Upon the agreement being filed the plaintiff may enter his claim in such division, and sue out a summons thereupon as in ordinary cases, and the proceedings in the action may be conducted to judgment and execution, irrespective of the

amount recovered if it does not exceed \$800, in the same manner as other actions in such court. 1950, c. 16, s. 211.

212.—(1) An appeal shall lie to the Court of Appeal from Appeal.
a judgment under section 211.

(2) The provisions of Part I as to appeals shall apply to Application
an appeal under this section. 1950, c. 16, s. 212. of Part I.

213. Upon an application for a new trial, in an action Service on
wherein either party may appeal, personal service may be application
effected, or all papers requiring service may be delivered to for new trial.
the clerk of the court where the action was tried, or left at his
office for the person entitled thereto, and the clerk shall forth-
with send by registered post all such papers to the person
entitled to the same or his agent. 1950, c. 16, s. 213.

CHAPTER 107

The Dog Tax and Live Stock Protection Act

1. In this Act,

Interpre-
tation.

- (a) "dog" means any dog, male or female;
- (b) "live stock" means any head of cattle or sheep, and includes the young of either of them;
- (c) "Minister" means Minister of Agriculture;
- (d) "municipality" means city, town, village or township;
- (e) "owner" of a dog includes any person who possesses or harbours a dog and "owns" and "owned" have a corresponding meaning;
- (f) "poultry" means domestic chickens, ducks, geese and turkeys and includes the young of any of them.
R.S.O. 1937, c. 335, s. 1; 1942, c. 12, s. 1, *amended*.

PART I

DOG TAX

2.—(1) Subject to section 5, an annual dog tax shall be levied in every municipality upon every person who is assessed as owner or tenant of any land and who is in occupation thereof, in respect of every dog which he owns within the municipality or which is habitually kept upon the premises for which he is assessed although such dog is owned by some other person.

(2) Where no by-law increasing the tax has been passed by the municipality, the amount of the tax shall be,

for a male dog, if only one is kept.....	\$2.00
for each additional male dog.....	4.00
for a female dog, if only one is kept.....	4.00
for each additional female dog.....	6.00

Spayed
females.

(3) Where the certificate of a veterinary surgeon is produced showing that a female dog has been spayed, it shall be taxed at the same rate as a male dog.

Increase
of tax.

(4) Any municipality may pass a by-law increasing the tax.

Tax on
kennel of
pure-bred
dogs.

(5) The owner of a kennel of pure-bred dogs registered in the register of The Canadian Kennel Club, Incorporated, shall pay an annual tax of \$10 to the treasurer of the municipality as a tax upon the kennel and he shall not be liable to pay any further tax in respect of such pure-bred dogs. R.S.O. 1937, c. 335, s. 2.

Entry on
assessment
roll of
number
of dogs.

3.—(1) The assessor shall enter upon the assessment roll opposite the name of every person assessed the number of male dogs, female dogs and spayed female dogs respectively for which he is liable to be taxed.

Statement
by owner
of dogs.

(2) Any person when so required by the assessor shall forthwith deliver to him a statement in writing of the number of such dogs owned by him or which are habitually kept upon the premises for which he is assessed by whomsoever owned.

Penalty.

(3) Every assessor who fails to make all due inquiry and to assess all dogs reported to him and every person who neglects or refuses to furnish the statement required by subsection 2 or who makes a false statement shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10.

Collection
of tax.

(4) The amount payable for dog tax shall be entered upon the collector's roll and the collector shall proceed to collect the same in the same manner as other municipal taxes.

Killing of
dog on
failure to
pay tax.

(5) When the tax is demanded and is not paid, the person assessed may be summoned before a magistrate who may order the dog to be destroyed unless the tax and costs are paid before a time named therein.

Powers of
constable.

(6) For the purpose of carrying out such order, a constable may enter upon the premises of the owner and destroy the dog.

Penalty on
collector.

(7) Every collector who neglects to collect the tax or take the proceedings provided by this section before the time fixed for the return of his roll to the treasurer shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10. R.S.O. 1937, c. 335, s. 3.

4.—(1) In a municipality in which the dog tax is levied ^{Dog tags.} every person in each year on or before the 15th day of February or on or before such earlier or later date as may be fixed by by-law of the council shall procure from the clerk or the assessor a tag for each dog in respect of which he is liable for the dog tax and shall keep the tag securely fixed on the dog at all times during the year and until he procures a tag for the following year, except that the tag may be removed while the dog is being lawfully used for hunting deer in the bush.

(2) A fee not exceeding 25 cents may be charged for each ^{Fee for tag.} tag.

(3) The tag shall bear a serial number and the year in ^{Serial number on tag.} which it was issued and a record shall be kept by the clerk or other officer designated for that purpose showing the name and address of the owner and the serial number of the tag.

(4) Every person who fails to comply with subsection 1 ^{Penalty.} or who uses a tag upon a dog other than that for which it was issued shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10.

(5) Every dog which is found off the premises upon which ^{Killing dog found without tag.} it is habitually kept without a tag and not under the control of any person may be killed.

(6) Where an owner of a dog applies to the clerk for a tag ^{Duties of clerk where owner of dog has not been assessed.} after the assessment roll has been returned and before the collector's roll has been delivered to the collector and the clerk finds that such owner has not been assessed for the dog, the owner shall forthwith make and deliver to the clerk the statement mentioned in subsection 2 of section 3 and the clerk shall make the necessary entries in the assessment roll and in the collector's roll, but where the owner acquired the dog after the expiration of six months of the year he shall only be charged with one-half of the dog tax. R.S.O. 1937, c. 335, s. 4.

5.—(1) By-laws may be passed by the councils of municipalities for licensing and requiring the registration of dogs ^{Licensing and registration of dogs.} and for imposing a licence fee on the owners of them with the right to impose a larger fee in the case of female dogs or for each additional dog or female dog where more than one is owned by any one person or in any one household.

(2) Where the licence fee is equal to or exceeds the dog tax ^{Non-application of sections 2 and 3.} required to be levied by this Act, sections 2 and 3 shall not apply while the by-law remains in force.

Application
of section 4.

(3) On payment of the licence fee the owner shall be furnished with a dog tag and the provisions of subsections 1 and 4 of section 4 as to keeping the tag securely fixed on the dog, and subsections 2, 3 and 5 of section 4 shall apply. R.S.O. 1937, c. 335, s. 5.

Prohibiting
and regul-
ating the
running at
large of
dogs.

6.—(1) By-laws may be passed by the councils of towns, townships, villages and cities having a population of less than 100,000 and by boards of commissioners of police in cities having a population of not less than 100,000 for prohibiting or regulating the running at large of dogs within the municipality or within any defined area thereof, for seizing and impounding and for killing, whether before or after impounding, dogs running at large contrary to the by-law, and for selling dogs so impounded at such time and in such manner as may be provided by the by-law. R.S.O. 1937, c. 335, s. 6 (1); 1945, c. 6, s. 1.

When
deemed
running
at large.

(2) For the purpose of this section a dog shall be deemed to be running at large when found in a highway or other public place and not under the control of any person. R.S.O. 1937, c. 335, s. 6 (2).

Penalties.

7. A by-law passed under this Act may impose a penalty of not more than \$50, exclusive of costs, upon every person who contravenes the by-law, and every such penalty shall be recoverable under *The Summary Convictions Act*. R.S.O. 1937, c. 335, s. 7.

Rev. Stat.,
c. 379.

PART II

PROTECTION OF LIVE STOCK

Interpre-
tation.

8. In this Part, "injured" and "injuring" apply to injuries caused by wounding, worrying, terrifying or pursuing. R.S.O. 1937, c. 335, s. 8.

When dogs
may be
killed.

9. Any person may kill any dog,

(a) found killing or injuring live stock; or

(b) found in a township or village between sunset and sunrise straying from the premises where it is habitually kept; or

(c) found straying at any time, and not under proper control, upon premises where live stock are habitually kept. R.S.O. 1937, c. 335, s. 9.

10.—(1) Whether the owner of any dog killing or injuring live stock is known or not, the municipality in which the live stock were killed or injured shall be liable to the owner of the live stock for the amount of damage ascertained as hereinafter provided and shall pay over such amount to the owner within 30 days after the owner has filed with the clerk an affidavit that to the best of his knowledge and belief the live stock were killed or injured by a dog other than a dog owned by him.

Liability of municipality for damages to live stock.

(2) The council of a township in a territorial district, with the assent of the electors secured at any municipal election, may pass a by-law providing that the municipality shall not be liable to the owner of the live stock for the amount of the damage, unless the owner furnishes proof to the satisfaction of the council that the live stock were killed or injured by dogs and not by wild animals.

When municipality not liable.

(3) The municipality shall not be liable under subsection 1 if at the time the live stock were killed or injured they were running at large upon the highway or unenclosed land, provided that the council of a township in a territorial district may with the assent of the electors pass a by-law declaring that this subsection shall not apply in determining its liability. R.S.O. 1937, c. 335, s. 10.

Idem.

11.—(1) The council of any municipality may pass a by-law providing that where poultry owned by any person is damaged or injured by any dog within such municipality to the amount of 50 pounds or more, the provisions of this Act respecting live stock shall apply to such poultry. 1942, c. 12, s. 2.

By-law to include poultry.

(2) The council of any municipality may pass a by-law providing that where live stock or poultry or both owned by any person is damaged or injured by any wild animal within such municipality the provisions of this Act respecting live stock shall apply, provided that in the case of poultry the provisions of any such by-law shall apply only where the poultry is damaged or injured to the amount of 50 pounds or more. 1945, c. 6, s. 2.

By-law to include damage by wild animals.

12.—(1) The council of every municipality shall appoint one or more competent persons as live-stock valuers.

Appointment of live-stock valuers.

(2) Within 48 hours after the owner of live stock discovers that his live stock has been killed or injured he shall notify a live-stock valuer for the municipality in which the live stock was killed or injured or the clerk of such municipality

Duty of live-stock valuers.

who shall forthwith notify a live-stock valuer, and the valuer so notified shall immediately make full investigation and shall make his report in writing within 10 days thereafter to the clerk of the municipality giving in detail the extent and amount of the damage done and he shall at the same time forward a copy of such report to the owner of the live stock.

When
carcass
not to be
destroyed.

(3) The carcass of the live stock shall not be destroyed until it has been seen by the valuer for the municipality.

Appeal to
Minister.

(4) If the owner of the live stock, or the council, is dissatisfied with the report of the valuer for the municipality, an appeal may be had to the Minister who may name a valuer to make a further investigation and the report of such valuer shall be final and conclusive as to the extent and amount of the damage done.

Time for
appeal.

(5) Such appeal shall be made within 30 days after the making of the report by the valuer for the municipality and \$25 shall be deposited with the Minister at the time of the appeal to be forfeited if the report of the valuer for the municipality is sustained.

Naming
of valuer
where no
live-stock
valuers
appointed.

(6) If no live-stock valuer has been appointed by the council or the clerk or valuer does not discharge the duty imposed upon him by this Act, the Minister on the application of the owner of the live stock may name a valuer to make investigation and the report made by such valuer shall be final and conclusive as to the extent and amount of the damage done, and the municipality, in addition to its liability to the owner of the live stock as provided by section 10, shall forthwith pay to the Minister the cost of such valuation as fixed by him.

Report of
valuer
appointed
by
Minister.

(7) The report of the valuer appointed by the Minister shall be made to the Minister, and the Minister shall forward a copy of such report to the clerk of the municipality and to the owner of the live stock. R.S.O. 1937, c. 335, s. 11.

Amount of
damages
limited.

(8) No live-stock valuer appointed by a municipality or by the Minister shall report the extent and amount of damage done to a head of cattle in excess of \$250. 1947, c. 32, s. 1.

Liability of
owner of
dog to
municipality.

13.—(1) A municipality having paid to the owner of the live stock the amount of the damage ascertained as above provided shall be entitled to recover the amount so paid from the owner of the dog in any court of competent jurisdiction without proving that it was vicious or accustomed to worry live stock.

(2) In order to ascertain the owner of the dog which killed or injured the live stock the clerk on the instructions of the head of the municipality may issue a subpoena calling upon any person to attend before the council and the member of the council presiding may administer an oath to such person and any member of the council may examine such person touching his knowledge of the matter. Proceedings for ascertaining owner of dog.

(3) Where it appears that the damage was caused by more dogs than one, the court may apportion the damages as may be deemed just, having regard to the strength, ferocity and character of the dogs concerned. Apportionment of damages.

(4) Where a dog is known to have killed or injured live stock, the owner on being duly notified shall within 48 hours cause the dog to be killed. Duty of owner to kill dog.

(5) Where the owner refuses or neglects to kill the dog, he may be summoned before any magistrate who may order that the dog be killed, and in such case a constable may enter upon the premises of the owner and may kill the dog. Neglect to kill dog.

(6) The magistrate may direct the owner to pay the costs of the proceedings and of the destruction of the dog, and if he deems the neglect or refusal of the owner to have been unreasonable may impose on him a penalty of not more than \$10. Penalty.

14. The times and the method of procedure set out in this Act shall be regarded as merely directory, and a proceeding which is in substantial conformity with this Act shall not be open to objection on the ground that it is not in strict compliance therewith. R.S.O. 1937, c. 335, s. 13. Times and procedure directory.

15. All penalties recovered under this Act shall belong to the municipality. R.S.O. 1937, c. 335, s. 14. Application of penalties.

16. Where in territory without municipal organization any live stock has been killed or injured by a dog, the owner of the dog shall be liable to the owner of the live stock for the amount of the damage sustained, and it shall not be necessary in any action to recover such damages to prove that the dog was vicious or accustomed to worry live stock. R.S.O. 1937, c. 335, s. 15. Liability of owner in unorganized territory.

CHAPTER 108

The Dominion Courts Act

1. The Supreme Court of Canada and the Exchequer Court of Canada, or the Supreme Court of Canada alone, according to the *Supreme Court Act* (Canada) and the *Exchequer Court Act* (Canada) shall have jurisdiction, Jurisdiction of courts, R.S.C. 1927, cc. 34, 35.

- (a) in controversies between the Dominion of Canada and Ontario; controversies between Canada and Ontario;
- (b) in controversies between any other province of Canada in which an Act similar to this Act is in force and Ontario; controversies between Ontario and certain other provinces;
- (c) in actions or proceedings in which the parties thereto by their pleadings have raised the question of the validity of an Act of the Parliament of Canada or of an Act of the Legislature of Ontario, when in the opinion of a judge of the court in which the same are pending the question is material, and in such case the judge shall, at the request of the parties, and may without such request, if he thinks fit, order the case to be removed to the Supreme Court of Canada, in order that the question may be decided. cases involving the validity of Acts of Canada or Ontario.
R.S.O. 1937, c. 99, s. 1.

2. In case sittings of any court of the Dominion of Canada, or of any judge thereof, are appointed to be held in any place in which a court house is situate, such court or judge shall have in all respects the same authority as a judge of the Supreme Court in regard to the use of the court house and other buildings or apartments set apart in that place for the administration of justice. Use of court house etc. by Federal court judges.
R.S.O. 1937, c. 99, s. 2.

CHAPTER 109

The Dower Act

RIGHT TO DOWER

1. A widow, on the death of her husband, may tarry in his chief house for 40 days after his death, within which time her dower shall be assigned her, if it has not been assigned her before, and in the meantime she shall have her reasonable maintenance, and for her dower shall be assigned to her the third part of all the lands of her husband whereof he was seized at any time during coverture, except such thereof as he was so seized of in trust for another. R.S.O. 1937, c. 112, s. 1. Dower and quarantine.

2. A widow wrongfully deforced of dower or quarantine may recover damages for such deforcement against the deforcer. R.S.O. 1937, c. 112, s. 2. Damages for deforcement.

3. Where a husband dies beneficially entitled to any land for an interest which does not entitle his widow to dower at common law, and such interest, whether wholly equitable or partly legal and partly equitable, is or is equal to an estate of inheritance in possession, other than an estate in joint tenancy, his widow shall be entitled to dower out of such land. R.S.O. 1937, c. 112, s. 3. Dower out of equitable estates.

4. Where a husband has been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same, although her husband did not recover possession thereof, but such dower shall be sued for or obtained within the period during which such right of entry or action might be enforced. R.S.O. 1937, c. 112, s. 4. Dower where husband had a right of entry.

WHERE NO DOWER

5. Dower shall not be recoverable out of any separate and distinct lot, tract or parcel of land which, at the time of the alienation by the husband or at the time of his death, if he died seized thereof, was in a state of nature and unimproved by clearing, fencing or otherwise for the purposes of cultiva- Land in state of nature.

tion or occupation; but this shall not restrict or diminish the right to have woodland assigned to the dowress under section 29, from which it shall be lawful for her to take firewood necessary for her own use, and timber for fencing the other portions of the same lot, tract or parcel assigned to her. R.S.O. 1937, c. 112, s. 5.

Mining land. **6.** No dower shall be recoverable out of any land which has been heretofore or is hereafter granted by the Crown as mining land in case such land is, on or after the 31st day of December, 1897, granted or conveyed to the husband of the person claiming dower and he does not die entitled thereto. R.S.O. 1937, c. 112, s. 6.

Land dedicated for streets. **7.** Land dedicated by the owner thereof for a street or public highway shall not be subject to any claim for dower by the wife of the person by whom the same was dedicated. R.S.O. 1937, c. 112, s. 7.

Dower forfeited by elopement with adulterer. **8.** Where a wife willingly leaves her husband and goes away, and continues with her adulterer, she shall be barred forever of her action to demand her dower that she ought to have of her husband's land, unless her husband willingly and without coercion be reconciled to her and suffer her to dwell with him; in which case she shall be restored to her action. R.S.O. 1937, c. 112, s. 8.

BAR OF DOWER

Effect of bar of dower in mortgages. **9.—(1)** No bar of dower contained in any mortgage or other instrument intended to have the effect of a mortgage or other security upon land shall operate to bar such dower to any greater extent than is necessary to give full effect to the rights of the mortgagee or grantee under such instrument.

Wife's right to dower in surplus of purchase money arising from sale under mortgage. **(2)** Where land comprised in such mortgage or other instrument is sold under any power of sale contained therein or under any legal process, the wife of the mortgagor or grantor who has so barred her dower in such land shall be entitled to dower in any surplus of the purchase money arising from such sale which may remain after satisfaction of the claim of the mortgagee or grantee, to the same extent as she would have been entitled to dower in the land from which such surplus purchase money was derived had the same not been sold and, except where the mortgage or other instrument is for the purchase money of the land, the amount to which she is entitled shall be calculated on the basis of the amount realized

from the sale of the land and not upon the amount realized from the sale over and above the amount of the mortgage only. R.S.O. 1937, c. 112, s. 9.

(NOTE—*As to the right to dower in land subject to The Land Titles Act where land acquired subject to a charge, or where owner, after charging land, marries, see Rev. Stat., c. 197, s. 46.*)

10.—(1) A mortgagee or other person holding any money out of which a married woman is dowerable under section 9 may pay the same into the Supreme Court to the credit of such married woman and the other persons interested therein. Payment of money into Court.

(2) The court may, on a summary application, make such order as may be deemed just for securing the right of dower of a married woman in any money out of which she is dowerable. Order for securing right of dower. R.S.O. 1937, c. 112, s. 10.

11. A widow shall not be entitled to take her interest in money under section 9, and, in addition thereto, a share of the money as personal estate. Widow's election. R.S.O. 1937, c. 112, s. 11.

12. A person whose wife is of unsound mind and confined in an institution under *The Mental Hospitals Act* at the time he becomes the owner of any land, may at any time while his wife is so confined sell and convey or mortgage such land, freed and discharged of any claim of his wife for dower therein. Sale, etc., free from dower. Rev. Stat., c. 229. R.S.O. 1937, c. 112, s. 12.

13.—(1) Where the wife of an owner of land, Where wife living apart from her husband.

(a) has been living apart from him for two years under such circumstances as disentitle her to alimony; or

(b) is of unsound mind and confined as such in a hospital for mentally ill, mentally defective or epileptic persons,

and such owner is desirous of selling or mortgaging the land free from dower, a judge of the Supreme Court, or a judge of the county or district court of the county or district in which such owner resides, on application by him, may, by an order to be made in a summary way, upon such evidence as to the judge may seem meet, and upon notice to be served personally, dispense with the concurrence of the wife for the purpose of barring her dower.

Service of
notice of
application
to judge.

(2) Where for any reason notice cannot be served personally, the order may be made after notice has been served upon the Public Trustee and in such other manner as the judge may direct.

Order, form
and contents.

(3) The judge shall, unless the wife has been so living apart from her husband under such circumstances as disentitle her to dower, ascertain and state in the order the value of such dower, and shall by the order direct that the amount thereof shall be paid into court or shall remain a charge upon the land or be secured otherwise for the benefit of the wife or be paid or applied for her benefit as he may deem best.

Conveyance
or mortgage
after order.

(4) After the making of the order a conveyance or mortgage by the owner, expressed to be free from his wife's dower, shall, subject to the terms and conditions mentioned in the order, be sufficient to bar her right thereto.

When agree-
ment for sale
executed by
husband or
part of pur-
chase money
retained.

(5) This section shall extend to any case in which an agreement for sale has been made, or a conveyance executed by the husband, and part of the purchase money retained by the purchaser on account of dower or an indemnity given against such dower, and in any such case the application may be made by any person interested in the land, the purchase money retained or the indemnity.

Where wife
is an infant
or of un-
sound mind.

Rev. Stat.,
c. 229.

(6) Where the wife is an infant or a person of unsound mind, notice of the application shall be served on the Official Guardian except where such person is confined in an institution under *The Mental Hospitals Act*, in which case the notice shall only be served on the Public Trustee.

Fee.

(7) On every such application a fee of \$5 shall be payable in law stamps, and no other fee or charge of any kind shall be payable in respect thereof, except that for filing the affidavits and papers the proper officer shall charge the same fees as for filing papers in other cases, which in the Supreme Court shall be paid in law stamps. R.S.O. 1937, c. 112, s. 13.

Application
where wife is
mentally ill
but not
confined in
an hospital.

14.—(1) Where the jail surgeon of a county or district in which a married woman, who is not confined in a hospital for mentally ill, resides, and another medical practitioner to be named by the judge, each certifies (Form 1) that he has personally examined such married woman and that he is of opinion that she is mentally ill, and a judge of the county or district court of the county or district in which such married woman resides, or a judge of the Supreme Court, also certifies (Form 2) that he has personally examined such married

woman, and that from such examination and from the evidence adduced before him, if he thinks it expedient to hear evidence, he is of opinion that such married woman is mentally ill, the judge may make the like order as is authorized by section 13.

(2) The examination and certificates required by this section shall not be acted upon by the judge unless all are made within a period of one month, and the application shall not be entertained unless it is made within one month after the day upon which the last of such examinations took place. R.S.O. 1937, c. 112, s. 14.

Interval between examination and application.

15. Where a judge makes an order under either section 13 or section 14 with reference to any parcel of land, he may afterwards make orders in respect of other sales or mortgages by the husband on the evidence adduced on the first application and on other evidence which satisfies him of the continued mental illness of the wife. R.S.O. 1937, c. 112, s. 15.

Subsequent orders by judge as to other sales or mortgages.

16. Where the owner of land has become bankrupt and it is sought to sell such lands in order to wind up his estate, and the wife of such owner will not release her dower, the trustee or assignee in bankruptcy may apply to a judge of the Supreme Court or to a judge of the county or district court of the county or district in which the lands are situate, for an order enabling him to convey the land free from the dower of such wife, and the order may be made subject to the like conditions and upon the like proceedings as are provided for in section 13. R.S.O. 1937, c. 112, s. 16.

Bar of dower on sale in bankruptcy.

17.—(1) Where the wife of an owner of land has been living apart from her husband for five years or more, and the husband sells and conveys, or has sold and conveyed the land, or mortgages, or has mortgaged the same, the wife not having joined in the conveyance or mortgage, and the purchaser or mortgagee not having had notice that the grantor or mortgagor had a wife living at the time, such purchaser or mortgagee may during the lifetime of the grantor or mortgagor apply to a judge of the Supreme Court or to a judge of the county or district court of the county or district in which he resides for an order enabling him to convey or mortgage the land free from the dower of such wife, which may be obtained subject to the like conditions and by the like proceedings as are provided by section 13.

Where wife of vendor or mortgagor has been living apart from husband for five years.

(2) A person claiming under the grantee or mortgagee shall be entitled to apply in like manner and obtain like relief founded on the right which such grantee or mortgagee

Relief of persons claiming under grantee or mortgagee.

had, or on the applicant's own interest having been acquired by purchase for value in good faith without notice that such owner had a wife at the time of the conveyance or mortgage. R.S.O. 1937, c. 112, s. 17.

Registration
of order.

18.—(1) An order under any of the preceding sections may be made in duplicate or in as many parts as are necessary, and shall be signed by the judge, and may be registered in the registry office of the registry division wherein the land to which the same relates is situate, upon its production and deposit, without any proof thereof, and such registration may take place either before or after the execution of the conveyance or mortgage made in pursuance of such order.

Order may
i.e. endorsed
on deed.

(2) The order may be endorsed or written upon the conveyance or mortgage, in which case it shall be registered as part thereof.

Fee for
registration
of order.

(3) For the registration of the order, including all necessary entries and certificates, the registrar shall be entitled to a fee of \$1, unless the order is endorsed or written upon the conveyance or mortgage, in which case no fee shall be payable in respect of the registration thereof.

Description
of land in
order.

(4) If the order is endorsed or written upon the conveyance or mortgage, the land may be described in the order by reference to the description contained in the conveyance or mortgage. R.S.O. 1937, c. 112, s. 18.

Wife joining
in deed with-
out releasing
dower.

19. Where a wife has joined or hereafter joins in a conveyance or mortgage purporting to convey or mortgage land, or has signed or signs, otherwise than as a witness, a conveyance or mortgage by which her husband conveys or mortgages or purports to convey or mortgage land, but the conveyance or mortgage contains no words purporting to release her dower or other estate or interest in the land, the conveyance or mortgage shall have the same effect as if it contained a bar of dower by the wife and she thereby barred her dower in the land. R.S.O. 1937, c. 112, s. 19; 1941, c. 55, s. 10.

Married
women
under 21
barring
dower.

Rev. Stat.,
c. 197.

20. A married woman under 21 years of age and of sound mind may bar her dower in any land by joining with her husband in a deed or conveyance thereof to a purchaser for value or to a mortgagee, or in a transfer or charge under the provisions of *The Land Titles Act* in which deed, conveyance, transfer or charge, a release or bar of her dower is contained, and she may in like manner release her dower to any person to whom such land has been previously conveyed. R.S.O. 1937, c. 112, s. 20.

ASSIGNMENT OF DOWER

21. The dowress and the tenant of the freehold may, by ^{By deed of assignment.} an instrument under their hands and seals, executed in the presence of two witnesses, agree upon the assignment of dower, or upon a yearly or gross sum of money to be paid in lieu and satisfaction of dower, and the instrument may be registered in the proper registry office by filing the same or a duplicate thereof, verified by the affidavit of one of the subscribing witnesses, and shall entitle the dowress to hold the land so assigned to her against the assignor and all parties claiming through or under him, as tenant for her life, or to distrain for, or to sue for, and recover in any court of competent jurisdiction the yearly or gross sum agreed to be paid to her by the tenant of the freehold, and the instrument so registered shall be a lien upon the land for such yearly or gross sum, and shall be a bar to any action or proceeding by the dowress for dower in the lands mentioned therein. R.S.O. 1937, c. 112, s. 21.

22. Every tenant in possession who is not also tenant of ^{Duty to notify landlord.} the freehold and who is served with a writ of summons in an action for the recovery of dower shall forthwith give notice thereof to his landlord or other person under whom he entered into possession, under the penalty of forfeiting the value of three years improved rent of the premises in the possession of the tenant, to the person under whom he entered into possession, to be recovered by action in the Supreme Court. R.S.O. 1937, c. 112, s. 22.

23. In estimating damages for the detention of dower or ^{Mode of estimating damages for detention of dower, etc.} the yearly value of the land, for the purpose of fixing a yearly sum of money in lieu of an assignment of dower by metes and bounds, the value of permanent improvements made after the alienation of the land by the husband or after the death of the husband, shall not be taken into account; but the damages or yearly value shall be estimated upon the state of the property at the time of such alienation or death, allowing for the general rise, if any, in the price and value of land in the particular locality. R.S.O. 1937, c. 112, s. 23.

ASSIGNMENT OF DOWER AFTER JUDGMENT

24. The sheriff, on receipt of the writ of assignment of ^{Appointment of commissioners to admeasure the dower, etc.} dower, shall, by writing under his seal of office, appoint two resident freeholders of his county who are rated upon the assessment roll for real estate of a value not less than \$2,000 each, and each of whom would in other respects be eligible

to serve as a juror between the parties named in the writ, and an Ontario land surveyor, to be commissioners to admeasure the dower, and the sheriff shall, in such writing, set out a copy of the writ, and shall name therein a day on or before which the commissioners shall make and return to him a report of their proceedings and determination in the execution of the duty assigned to them. R.S.O. 1937, c. 112, s. 24.

Death, etc.,
of com-
missioners.

25. In the case of the death or refusal to act of any or all of the commissioners so appointed, the sheriff shall, from time to time, in like manner, appoint another or others to perform the duty of any who may die or refuse to act. R.S.O. 1937, c. 112, s. 25.

Oath of com-
missioners.

26.—(1) Every commissioner so appointed shall, before entering upon the execution of his duty, take and subscribe an oath in the following form:

I,, do swear that I am not of kin to the plaintiff (*naming her*) or to the defendant (*naming him*), or in any way interested in the land out of which the assignment of dower is to be made by me, and that I will honestly, impartially, and to the best of my skill and ability, execute and perform the duties imposed upon me by the appointment of, Sheriff of the County of, as a Commissioner for the admeasurement of dower between the plaintiff and the defendant according to law.

So help me God.

Return to
sheriff.

(2) The commissioners shall annex to their report the oaths sworn by them, and return them to the sheriff. R.S.O. 1937, c. 112, s. 26.

Powers and
liabilities of
commis-
sioners.

27. After taking and subscribing such affidavit, the commissioners shall, for all purposes in the fulfilment of the duties by law required of them, be considered officers of the court, and shall be entitled to the same immunities and protection and be subject to the same liabilities and proceedings as a sheriff in the discharge of his duty. R.S.O. 1937, c. 112, s. 27.

Attendance
of witnesses.

28.—(1) If either party desires to produce a witness before the commissioners, such party may sue out a subpoena *ad testificandum* or *duces tecum* from the office in which the action was commenced, commanding the attendance of such witness at the time and place appointed by the commissioners.

Payment of
witness.

(2) The person so required to attend shall be entitled to be paid the same fees, allowances and conduct money as if he had been subpoenaed as a witness in an ordinary action. R.S.O. 1937, c. 112, s. 28.

29.—(1) It shall be the duty of the commissioners,

Duties of
commis-
sioners.

- (a) to admeasure, designate and lay off without delay, by sufficient marks, descriptions, boundaries or monuments, one-third' of the land mentioned in the writ, according to the nature of the land, whether meadow, arable, pasture or woodland, being a part of the land mentioned in the writ, and having always due regard to the nature and character of the buildings and erections on such land;
- (b) to ascertain and determine what permanent improvements have been made upon the land since the death of the plaintiff's husband, or since he alienated the same to a purchaser for value, and if it can be done they shall award the dower out of such part of the land as does not embrace or contain such permanent improvements; but if that cannot be done, they shall deduct either in quantity or value from the portion to be by them allotted or assigned to the plaintiff in proportion to the benefit she may or will derive from the assignment to her as part of her dower of any part of such permanent improvements.

(2) If from peculiar circumstances, such as there being a mill or manufactory upon the land, the commissioners cannot make a fair and just assignment of dower by metes and bounds, they shall assess a yearly sum of money, being as near as may be one-third of the clear yearly rents of the premises, after deducting any rates or assessments payable thereon, and in assessing such yearly sum they shall make allowances and deductions for permanent improvements, as above provided for, and in their report to the sheriff they shall state the amount of such yearly sum and set forth all the evidence taken by them in relation to the same.

Assessment
of yearly
sum in lieu
of dower.

(3) The evidence shall be taken upon oath, which oath any one of the commissioners is hereby authorized to administer, and shall be reduced to writing and subscribed by the witness.

Evidence
on oath.

(4) Such yearly sum shall be a lien upon the land mentioned in the writ or upon such specific portion thereof as the commissioners may direct, and the same shall be recoverable by distress as for rent or by action against the tenant of the freehold for the time being.

Recovery
of sum
assessed.

(5) The report of the commissioners shall be in writing, signed by them and directed to the sheriff, and shall

Report of
commis-
sioners.

contain a full statement of their proceedings, and, where the dower is assigned by metes and bounds, shall distinctly point out and describe the same, and the posts, stones or other monuments designating the boundaries, and for the purpose of planting and marking the posts, stones or monuments, the commissioners may, if necessary, employ chain-bearers and labourers. R.S.O. 1937, c. 112, s. 29.

Return of writ and report.

30. The sheriff may, in his discretion, upon the request of the commissioners, enlarge the time for making their report for not more than 10 days, and he shall, within 24 hours after the receipt thereof, endorse thereon the day and hour of the receipt, and he shall then forthwith return the writ, together with the report and all papers annexed thereto, to the office wherein the action was commenced. R.S.O. 1937, c. 112, s. 30.

Appeal.

31.—(1) Either party, within a month from the filing of the sheriff's return to the writ, or within such further time as the Supreme Court or a judge thereof may allow, may appeal from the report of the commissioners to a judge in court, upon grounds apparent on the report and papers filed therewith, or may apply to set aside the same, upon other grounds verified by affidavit and set forth in the notice served.

Order of court thereon.

(2) The judge may vary or amend the report, or refer the same back to the commissioners for amendment in whole or in part, with such directions as to law or fact as he may deem proper, or he may confirm or set aside the report and may appoint three new commissioners or direct that the sheriff shall do so, and the new commissioners shall have the same powers and perform the same duties as hereinbefore expressed, and the report of the new commissioners shall be treated as if no other report had been made, and shall be dealt with and proceeded upon accordingly.

Effect of report being appealed from for misconduct, etc.

(3) If the report is moved against upon the ground of misconduct or fraud on the part of the commissioners, the judge may direct that they be added as parties to the proceeding, and if wilful misconduct or fraud is established, the report may be set aside and the commissioners may be adjudged to pay to the parties injured all the costs which have been incurred in respect of proceedings rendered useless by such misconduct or fraud and all the costs of the proceeding to set aside the report.

Costs of appeal.

(4) The appeal or application may be dismissed with or without costs, and the court may order the party at whose

instance or on whose complaint the commissioners have been made parties, to pay the commissioners their costs.

(5) If the appeal or application is dismissed, or if the report is not appealed from or moved against within the proper time, the report shall thenceforth be final and conclusive on all parties to the action of dower, and a copy of the report, certified by the registrar under the seal of the court, may be registered in the proper registry office. R.S.O. 1937, c. 112, s. 31.

Registration
of copy of
report.

32. After such registration the plaintiff shall be entitled to sue out a writ directed to the proper sheriff, commanding him to put her into possession of the land assigned to her for her dower and to levy all such costs as have been awarded to her against the defendant. R.S.O. 1937, c. 112, s. 32.

When writ of
possession
may issue.

33. The commissioners shall each be entitled to receive from the plaintiff the sum of \$5 for each day's attendance, not exceeding two, and the sum of 20 cents for every 100 words for drawing up their report, and may also charge 10 cents for every 100 words of each copy furnished by them to either party. R.S.O. 1937, c. 112, s. 33.

Commis-
sioners' fees.

34. The plaintiff shall pay the costs of suing out and the costs of the commissioners in executing the writ of assignment of dower and making their report, but each party shall pay his own costs of witnesses and of his counsel or solicitor attending before the commissioners. R.S.O. 1937, c. 112, s. 34.

By whom
costs to
be paid.

FORM 1

(Section 14)

CERTIFICATE OF MEDICAL PRACTITIONER

I, the undersigned, a legally qualified medical practitioner, jail surgeon of the jail of the County (or District) of (or as the case may be) residing and practising at in the County (or District) of, do hereby certify that on the day of, 19, at in the County (or District) of I, separately from any other medical practitioner, personally examined A. B. of the Township of in the County of (or District) of, wife of C. B., of the Township of in the County (or District) of, and I further certify that the said A. B. is mentally ill and that I have formed this opinion upon the following grounds, namely: (here state the facts upon which the certificate is based).

Signed this day of, 19, at in the County of

Witness

FORM 2

(Section 14)

CERTIFICATE OF JUDGE

Province of Ontario. }
County (or District) of..... }

I, the undersigned.....
Judge of the County (or District) Court of the County (or District) of
....., do hereby certify that on the
day of....., 19...., I personally examined *A.B.*, of the
..... of..... in the County (or District)
of....., wife of *C.B.*, of the..... of..... in the County
(or District) of....., and that from such personal examination
(and from the evidence of *G.H.* and *J.K.* adduced before me, *(if evidence
has been taken)*) I am of opinion that the said *A.B.* is mentally ill.

Signed this day of....., 19...., at.....
..... in the County (or District) of.....

R.S.O. 1937, c. 112, Form 2.

CHAPTER 110

The Drugless Practitioners Act

1. In this Act,

Interpre-
tation.

(a) "Board" means Board of Regents appointed under this Act;

(b) "drugless practitioner" means any person who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human body by manipulation, adjustment, manual or electro-therapy or by any similar method;

(c) "regulations" means regulations made under this Act. R.S.O. 1937, c. 229, s. 1.

2.—(1) The Board of Regents heretofore established is continued, and shall continue to be composed of five persons appointed by the Lieutenant-Governor in Council. Board of Regents continued.

(2) Every member of the Board appointed shall hold office for a period of two years, but any member shall be eligible for reappointment at the expiration of his term of office. Term of office. R.S.O. 1937, c. 229, s. 2 (1, 2), *amended*.

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member. Vacancies.

(4) The Lieutenant-Governor in Council shall designate from time to time one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of the Board. Chairman, vice-chairman and secretary-treasurer. R.S.O. 1937, c. 229, s. 2 (3, 4).

3. The Board, with the approval of the Lieutenant-Governor in Council, may make regulations. Regulations.

(a) for the examination and admission of drugless practitioners to practise in Ontario and for the regis-

tration of persons so admitted and prescribing the fees to be paid on examination and registration;

- (b) prescribing the qualifications of persons so to be admitted and the proofs to be furnished as to education, good character and experience;
- (c) for maintaining a register of persons admitted to practise and providing for the annual renewal of registration and prescribing the fee therefor;
- (d) prescribing the discipline and control of registered drugless practitioners;
- (e) for classifying persons admitted to practise under this Act and for prescribing the systems of treatment which may be followed by drugless practitioners of different classes;
- (f) for designating the manner in which any person registered under this Act may describe his qualification or occupation and prohibiting the use of any title, affix or prefix which in the opinion of the Board is calculated to mislead the public as to the qualification of any such person and for allowing the use of any affix or prefix not forbidden by section 51 of *The Medical Act* which in the opinion of the Board will correctly describe the qualification or occupation of such person;
- (g) for the investigation of any complaint that a registered drugless practitioner has been guilty of misconduct or displayed such ignorance or incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (h) for the cancellation or suspension of the registration or any person found by the Board to be guilty of misconduct or to have been ignorant or incompetent;
- (i) providing for the employment by the Board of such persons and services as may be required and for the payment of such persons and for such services;
- (j) providing for the payment of a per diem allowance and an allowance for travelling and living expenses to members of the Board while engaged on business of the Board;

(k) providing for the investment of the surplus revenue of the Board;

(l) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 299, s. 3; 1950, c. 17, s. 1.

4. Nothing in this Act or the regulations shall authorize any person not being so expressly authorized under a general or special Act of the Legislature to prescribe or administer drugs for use internally or externally or to use or direct or prescribe the use of anaesthetics for any purpose whatsoever or to practise surgery or midwifery. R.S.O. 1937, c. 229, s. 4.

5. Every person who, not being registered as a drugless practitioner under this Act or who having been so registered and whose registration has been cancelled or is under suspension, practises or hold himself out as practising as a drugless practitioner within the meaning of this Act, or who advertises or uses or affixes any prefix to his name signifying that he is qualified to practise as a drugless practitioner within the meaning of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 and on summary conviction for a subsequent offence within a period of two years after the first conviction shall be imprisoned for a term of not more than three months. R.S.O. 1937, c. 229, ss. 5, 9.

6.—(1) In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the secretary-treasurer of the Board, shall be sufficient evidence of all persons who are registered practitioners in lieu of the production of the original register, and any certificate upon such printed or other copy of the register purported to be signed by any person in his capacity of secretary-treasurer of the Board under this Act, shall be *prima facie* evidence that such person is the secretary-treasurer without any proof of his signature or of his being in fact the secretary-treasurer.

(2) The absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered under this Act.

(3) In the case of a person whose name does not appear in such copy, a certified copy under the hand of the secretary-treasurer of the entry of the name of such person on the register shall be evidence that such person is registered under this Act. R.S.O. 1937, c. 229, s. 6.

Saving.

7. Nothing in this Act shall apply to or affect,

- (a) the practice of any profession or calling by any person practising the same under any general or special Act of the Legislature;
- (b) any nurse acting in the absence of, or under the prescription or direction of a legally qualified medical practitioner;
- (c) the furnishing of first aid or temporary assistance in cases of emergency;
- (d) persons treating human ailments by prayer or spiritual means as an enjoyment or exercise of religious freedom. R.S.O. 1937, c. 229, s. 7.

Compliance
with other
statutes not
affected.

Rev. Stat.,
cc. 306;
406; 412.

8. Nothing in this Act or the regulations shall be taken or deemed to relieve any person from compliance with *The Public Health Act* or *The Vaccination Act* or any amendment to either of them, or from compliance with *The Vital Statistics Act* or any amendment thereto, or from any legal duty to provide for the treatment of any person by a legally qualified medical practitioner. R.S.O. 1937, c. 229, s. 8.

CHAPTER 111

The Egress from Public Buildings Act

1. In every church, school, house, hall or other building heretofore or hereafter constructed or used for holding public meetings or as a place of public resort or amusement, every outer door and every door leading from every assembly room or school room shall be hinged so that it may open outwards freely, and every gate of an outer fence, if not so hinged, shall be kept open by proper fastenings during the time the building is used for public purposes in order to facilitate the egress of the public in case of alarm from fire or other cause. R.S.O. 1937, c. 318, s. 1, *amended*.

Doors of public buildings to open outwards.

2. Every congregation or society possessing corporate powers, and every trustee, incumbent, churchwarden or other person holding churches, schools or buildings used for churches or schools shall be severally liable, as trustees for such societies, congregations or schools, to the provisions of this Act. R.S.O. 1937, c. 318, s. 2.

Liability of ecclesiastical or other bodies with corporate powers.

3.—(1) Every person who owns, possesses or manages a church, school, house, hall or other building heretofore or hereafter constructed or used for holding public meetings or as a place of public resort or amusement who contravenes this Act or the regulations made under this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$50.

Penalty.

(2) If the necessary changes are not made, the person offending shall be liable to a further penalty of \$5 for every week succeeding that in which the information is laid.

Further penalty for delay.

(3) One-half of the penalty shall be paid to the person laying the information and the other half to the corporation of the municipality within which the offence is committed. R.S.O. 1937, c. 318, s. 3, *amended*.

Application of penalty.

4. The Lieutenant-Governor in Council may make regulations for the enforcement of this Act and the safety and convenience of persons assembled in buildings coming within this Act. R.S.O. 1937, c. 318, s. 4.

Regulations.

CHAPTER 112

The Election Act

1. In this Act,

Interpre-
tation.

- (a) "board" means election board as constituted under this Act;
- (b) "candidate at an election" and "candidate" means a person elected to serve in the Assembly, and a person who is nominated as a candidate at an election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ, or after the dissolution or vacancy in consequence of which the writ has been issued;
- (c) "corrupt practice" means bribery and any act declared to be a corrupt practice by this or any other Act of the Legislature or recognized as such by the common law of Parliament;
- (d) "county" includes district;
- (e) "county court" includes a district court;
- (f) "election court" means a court constituted under *The Controverted Elections Act* for the trial of a petition and a summary trial court constituted under that Act; Rev. Stat., c. 67.
- (g) "form" means a form in the Schedule to this Act or prescribed by the regulations;
- (h) "local municipality" means a city, town, township or village;
- (i) "mariner" means any man or woman who is serving in His Majesty's naval forces of Great Britain or Canada, or is serving in any capacity on a mercantile vessel registered at a British port at the time of the issue of a writ for any provincial election;
- (j) "official agent" means the agent appointed by a candidate under section 199;

- (k) "polling list" means the list of voters furnished to a deputy returning officer by the returning officer in accordance with this Act;
- (l) "prescribed" means prescribed by this Act or by the regulations;
- (m) "regulations" means regulations made under this Act. R.S.O. 1937, c. 8, s. 1.

ELECTION BOARDS

Board for every county and district.

2.—(1) There shall be in every county and in every provisional judicial district a board to be known as the election board.

Disqualification for election.

(2) No person who is a member of the board, or who has been engaged as a revising officer in the preparation of the voters' lists to be used at the election, shall be eligible as a candidate at the election. R.S.O. 1937, c. 8, s. 2.

Composition of boards, York;

3.—(1) In the County of York the board shall be composed of the judges of the county court.

other counties and districts.

(2) In every other county and in every provisional judicial district the board shall be composed of five members as follows: the judge and junior judge of the county or district court, the local registrar of the Supreme Court, the sheriff of the county or district, the clerk of the peace, and where there is no junior judge of the county or district court, the local master of the Supreme Court, or where the local master is also the judge of the county or district, the registrar of deeds, and where there are more registry divisions than one in the county or district such one of the registrars of deeds as may be designated by the remaining members of the board.

City to be part of county or district.

(3) For the purposes of this section every city shall be taken to form part of the county or district in which it is situate, and the board shall have jurisdiction accordingly. R.S.O. 1937, c. 8, s. 3 (1).

When deputy registrar to act.

(4) Where there is no local registrar of the Supreme Court, the deputy local registrar of the Supreme Court shall be a member of the board. R.S.O. 1937, c. 8, s. 3 (2), *amended*.

Chairman.

(5) The judge of the county or district court of the county or district, or in his absence, or in case of his inability to act, or in case of a vacancy in his office, the junior judge, or acting

judge of the county or district court, shall be chairman of the board.

(6) Where the judge, or junior or acting judge, is unable to act, and, on account of illness or absence, there is no other person who may act in his place, he may appoint in writing some other member of the board as chairman *pro tempore*, or, if he is unable or neglects to do so, the remaining members of the board may elect a chairman from among their own number. Vacancy in chairmanship.

(7) The board shall appoint one of their own number or some other person to act as clerk of the board. R.S.O. 1937, c. 8, s. 3 (3-5). Clerk of board.

(8) Every member of the board, and the clerk, before acting, shall take an oath before a commissioner for taking affidavits or a justice of the peace to faithfully and impartially perform his duties. R.S.O. 1937, c. 8, s. 3 (6), *amended*. Oath of office.

(9) Three members of the board shall form a quorum. Quorum.

(10) Where there is a vacancy in the membership of the board and there is no official to fill the vacancy or where the number of officials mentioned in subsection 2 is not sufficient to complete the board, the board may elect some fit and proper person, or a sufficient number of such persons, to complete the full membership of the board. Vacancies.

(11) Where an electoral district includes parts of two or more counties or districts, it shall, for the purposes of this Act, be deemed to form part of the county or district in which its greater part is situate. R.S.O. 1937, c. 8, s. 3 (7-9). Electoral district containing territory in more than one county or district.

CLERK OF THE CROWN IN CHANCERY

4. The Lieutenant-Governor in Council shall appoint a Clerk of the Crown in Chancery, and in case of a vacancy in the office, or of the absence or inability of the person so appointed to act, the Clerk of the Assembly shall be *ex officio* the Clerk of the Crown in Chancery, and the person so appointed, or the Clerk, shall discharge all the duties which by any statute, law or usage, ought to be, or have been, discharged or performed by the Clerk of the Crown in Chancery. R.S.O. 1937, c. 8, s. 4. Appointment.

CHIEF ELECTION OFFICER

5.—(1) The Lieutenant-Governor in Council shall appoint some person being a barrister and a permanent officer of the Appointment of C.E.O. and A.C.E.O.

Legislature or of the Assembly or otherwise employed in the public service, to be Chief Election Officer and may appoint some other person possessing the like qualifications to be Assistant Chief Election Officer. R.S.O. 1937, c. 8, s. 5 (1); 1939, c. 47, s. 8.

Powers and
duties of
C.E.O.

(2) It shall be the duty of the Chief Election Officer to consult with and advise the boards throughout the Province, and to supervise and instruct the returning officers, deputy returning officers and poll clerks in the performance of their duties, and where necessary to personally visit and consult with the chairman of the board or the returning officer with a view to facilitating the preparation of the lists and the carrying out of this Act, and the preparation of the lists of voters in territory without municipal organization.

Powers and
duties of
A.C.E.O.

(3) The Assistant Chief Election Officer may act in the place of the Chief Election Officer at any time and while so acting shall possess the like powers and perform the like duties as the Chief Election Officer.

In cases of
emergency.

(4) In cases of emergency for which no provision is made the Chief Election Officer may give such directions as he may deem proper and anything done in compliance with such directions shall not be open to question, but the Chief Election Officer shall immediately give notice of any directions so given by him to any candidate or proposed candidate of whom he has knowledge. R.S.O. 1937, c. 8, s. 5 (2-4).

Clerical
assistance.

6. The Clerk of the Crown in Chancery and the Chief Election Officer may provide for such clerical and other assistance as may be necessary in the performance of their duties, and the Lieutenant-Governor in Council may authorize the issue of accountable warrants from time to time for payment of travelling and other expenses, and for remuneration of such officers and of persons employed in the office of the Clerk of the Crown in Chancery and the Chief Election Officer. R.S.O. 1937, c. 8, s. 6.

EFFECT OF IRREGULARITIES

Irregularities
not affect-
ing result.

7.—(1) No election shall be declared invalid,

- (a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;

- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll or the counting of the votes, or as to limitations of time; or
- (d) by reason of any mistake in the use of the forms contained in the Schedule to this Act,

if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that the irregularity, failure, non-compliance or mistake did not affect the result of the election.

(2) An irregularity in the preparation or revision of any assessment roll or voters' list shall not be a ground for questioning the validity of an election or a return under *The Controverted Elections Act*, or otherwise. R.S.O. 1937, c. 8, s. 7. Irregularities in assessment roll or voters' list. Rev. Stat., c. 67.

ELECTION INTERRUPTED

8. If by reason of riot or other emergency, a nomination meeting or the voting at a polling place is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing thereof, the returning officer or deputy returning officer, as the case may be, shall hold or resume the election or polling on the following day at the hour of one o'clock in the afternoon in the case of a nomination meeting and at the hour of eight o'clock in the forenoon in the case of a polling, and continue the same from day to day if necessary, until a fair opportunity for nominating candidates has been given or, in the case of polling, until the poll has been opened without interruption and with free access to voters for 11 hours in all. R.S.O. 1937, c. 8, s. 8. When election or polling is not commenced or is interrupted.

OATHS OR AFFIDAVITS

9.—(1) Except where otherwise provided, any oath or affidavit for the purposes of this Act may be sworn before a justice of the peace, a commissioner for taking affidavits or a notary public. Who may take affidavits.

(2) The returning officer and election clerk shall have power to administer any oath required by this Act with respect to the election, and the deputy returning officer and poll clerk may administer any oath except such as is required to be administered to the returning officer. Oaths, who to administer.

(3) Every person before whom it is herein provided that an oath or affidavit may be taken, shall administer the same gratuitously. R.S.O. 1937, c. 8, s. 9. No charge for administering oaths, etc.

AGENTS

Certain persons disqualified from acting as agents.

10. A person who, by section 15, is disqualified and incompetent to vote, or who within eight years has been found guilty by a competent tribunal of a corrupt practice or reported for a corrupt practice by an election court, shall not act as agent for a candidate at an election, and every person violating this provision shall be liable to the same penalty as if he had voted at the election. R.S.O. 1937, c. 8, s. 10.

Right of candidates to undertake duties of agent.

11. A candidate may himself undertake the duties which any agent of his, except his official agent, might have undertaken, if appointed, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may in pursuance of this Act attend, except at the marking of a ballot under section 100. R.S.O. 1937, c. 8, s. 11; 1942, c. 13, s. 1.

Non-attendance of agents.

12. Where expressions are used in this Act that require or authorize any act to be done in the presence of the agents of the candidates, the non-attendance of any agent shall not invalidate the act done. R.S.O. 1937, c. 8, s. 12.

PERSONS NOMINATED WITHOUT CONSENT

Non-liability of person nominated without consent.

13. Nothing in this Act shall impose any liability upon any person nominated as a candidate or declared to be a candidate by others without his consent, unless he has afterwards given his assent to the nomination or declaration, or has been elected. R.S.O. 1937, c. 8, s. 13.

QUALIFICATION OF CANDIDATE

Who may be candidates.
Rev. Stat., c. 202.

14. Any person of the full age of 21 years and a British subject by birth or naturalization, resident in Ontario, who is not disqualified by *The Legislative Assembly Act* or by any other Act, shall be qualified to be a candidate. R.S.O. 1937, c. 8, s. 14.

QUALIFICATION OF VOTERS

WHO SHALL NOT VOTE

Who disqualified from voting.

15.—(1) Judges of the Federal and Provincial Courts, clerks of the peace, Crown attorneys, and magistrates in cities and towns having a population of 5,000 and over, shall be disqualified and incompetent to vote.

(2) If any person mentioned in this section votes, he shall ^{Penalty.} incur a penalty of \$2,000, and his vote shall be null and void. R.S.O. 1937, c. 8, s. 15.

16.—(1) No returning officer or election clerk shall be ^{Disqualifi-} entitled to vote, but this provision shall not affect the duty ^{cation of} of the returning officer to give a casting vote. ^{certain} ^{officers.}

(2) No person shall be entitled to vote who at any time ^{Persons} before or during the election has been employed as counsel, ^{employed} agent, solicitor or clerk or in any other capacity by a candi- ^{by} date or by any person at or in reference to the election, or ^{candidate} for the purpose of forwarding the same, and who has received ^{for reward.} or expects to receive, either before, during or after the election, from any candidate or from any person, for acting in such capacity, any sum of money, fee, office, place or employment, or any promise, pledge or security therefor.

(3) Subsection 2 shall not apply to any person who per- ^{Saving as} forms any official duty in connection with the election and ^{to election} who receives the fees to which he is entitled. R.S.O. 1937, ^{officers.} c. 8, s. 16.

17. No person shall be entitled to be entered on the voters' ^{Disqualifi-} list, or shall vote, who is a prisoner in a penal or reform insti- ^{cation of} tution undergoing punishment for a criminal offence, or is a ^{convicts,} patient in a mental hospital, or is maintained in whole or in ^{mentally ill} part as an inmate receiving charitable support or care in a ^{persons, etc.} home for the aged or house of industry. R.S.O. 1937, c. 8, s. 17.

WHO MAY VOTE

18. Subject to the provisions hereinafter contained, in an ^{Who may} electoral district in which an election to the Assembly is held, ^{vote.} the following persons being entered on the proper polling list, and no others, shall be entitled to vote at such election:

1. Every man and every woman who, at the time of ^{Generally.} voting,
 - (a) is of the full age of 21 years;
 - (b) is a British subject;
 - (c) is not disqualified under this Act, or otherwise by law prohibited from voting;
 - (d) is and has been for a period of 12 months next preceding the day of polling a resident of and domiciled in Canada; and

Rev. Stat.,
c. 414.

- (e) in the case of a city, town or township to which Part IV of *The Voters' Lists Act* applies, is ordinarily resident in such city, town or township at the date of the issue of the writ of election, or in the case of an electoral district to which Part IV of *The Voters' Lists Act* does not apply, is and has been ordinarily resident in such electoral district for a period of two months next preceding the day of polling. R.S.O. 1937, c. 8, s. 18, par. 1; 1942, c. 13, s. 2.

Disabled
soldiers'
franchise.

2. Every man and every woman who, at the time of tendering a vote,

- (a) is a British subject;
- (b) is not qualified to vote under paragraph 1;
- (c) is not disqualified under this Act, or otherwise by law prohibited from voting,

whether he or she is or is not an Indian, enfranchised or unenfranchised, or of whole or part Indian blood, and whether or not he or she has attained the age of 21 years, and who,

- (d) is serving or served in any country in the naval, military or air forces of Canada or the British Empire or any part or ally thereof in World War I or World War II; and
- (e) is an inmate or patient or employed and resident in any military hospital or institution for the reception, treatment or vocational training of persons who are so serving or have so served, or in any hospital or institution for the blind or deaf or eleemosynary institution situated in the electoral district,

and there shall be entered on every list prepared under this Act opposite the name of any person so qualified, the letters "D.S.F." (Disabled Soldiers' Franchise). 1942, c. 13, s. 3.

Territory
without
municipal
organization.

3. In territory without municipal organization every man and every woman who, at the time of tendering a vote,
- (a) is of the full age of 21 years;

- (b) is a British subject;
- (c) is not disqualified under this Act, or otherwise by law prohibited from voting;
- (d) is and has been for a period of 12 months next preceding the day of polling, a resident of and domiciled in Ontario; and
- (e) is at the time of voting a resident of and domiciled in the electoral district. R.S.O. 1937, c. 8, s. 18, par. 3.

Change of Residence Within Two Months of Polling

19.—(1) Notwithstanding anything hereinbefore contained a person who was a resident in, and is entered on the list prepared for any polling subdivision or polling place in an electoral district, or who would have been entitled to be so entered had he remained a resident in such electoral district, and who has removed from such electoral district in the course of his ordinary profession, occupation or calling, and has become a resident of and is domiciled in another electoral district and any person ordinarily resident with such first-mentioned person as a member of his family or household who has so removed with the first-mentioned person, shall be entitled to be entered on the list of voters in the last-mentioned electoral district by the revising officer, or by the judge as the case may be, upon filing with the revising officer or judge an affidavit (Form 2) and producing such other evidence that he was so entered or entitled to be so entered and that such removal was solely for the purpose of carrying on such profession, occupation or calling, as the revising officer or judge may deem necessary.

Removal
from one
electoral
district to
another.

(2) The revising officer or judge shall give to every person entered upon the list under subsection 1 a certificate in writing (Form 3).

Certificates.

(3) After the name of every person entered on the list under subsection 1, the revising officer or judge shall write "entered under R.S.O. 1950, chapter 112, section 19".

Entry after
name of
person so
added to
list.

(4) A person whose name is entered on the list under this section shall not be entitled to vote unless at the time of tendering his vote he produces to the deputy returning officer the certificate mentioned in subsection 2.

Production
of certificate
at poll.

(5) This section shall not apply where voters' lists are prepared as provided for in Part IV of *The Voters' Lists Act*. R.S.O. 1937, c. 8, s. 19.

Application
of section.
Rev. Stat.,
c. 414.

Occasional or Temporary Absence

Occasional
or temporary
absence,
when not to
disqualify.

20. A person may be resident in a municipality within the meaning of this Act, notwithstanding occasional or temporary absence, or absence as,

- (a) a member of a permanent militia corps enlisted for continuous service, or a member of the active militia;
- (b) a member of the naval, military or air forces of Canada or the British Empire or any part or ally thereof against the King's enemies, or a nurse or nursing sister, or in any other capacity with such forces;
- (c) a student in attendance at an institution of learning in Canada;
- (d) a mariner within the meaning of this Act,

and such absence shall not disentitle him to be entered on any voters' list or to vote. R.S.O. 1937, c. 8, s. 20; 1939 (2nd Sess.), c. 11, s. 3 (2).

British Subjects—Naturalization

Naturaliza-
tion of men.

21.—(1) A man who was not on the 12th day of April, 1917, a British subject, shall not be entitled to be entered on the list and to vote at an election unless he has since become naturalized as a British subject.

When
women to
be deemed
British
subjects.

(2) A woman shall be deemed to be a British subject by birth or naturalization within the meaning of this Act, so as to entitle her to vote,

- (a) if she was born a British subject and is unmarried or married to a British subject, and has not become a subject of any foreign power or a citizen of any foreign state; or
- (b) if she was naturalized in her own right prior to the 12th day of April, 1917, as a British subject, or if she has since become naturalized under the laws of Canada or of Great Britain, and has not become a subject of any foreign power or a citizen of any foreign state;

- (c) if she has become a British subject by the naturalization as a British subject of her parent while she was a minor, and has not become a subject of any foreign power or a citizen of any foreign state;
- (d) if she is married to, or being a widow, is the widow of a British subject and since such marriage has not done any act to cause herself to become a subject of any foreign power or a citizen of any foreign state,

and no woman shall be entitled to be entered on the list of voters or to vote unless so qualified. R.S.O. 1937, c. 8, s. 21 (1, 2).

(3) For the purposes of this section a statutory declaration by any person claiming to be a British subject shall be *prima facie* evidence of the facts declared to. 1942, c. 13, s. 4. Evidence of facts.

(4) Subsections 1 and 2 shall not apply to any person qualified to vote under paragraph 2 of section 18. R.S.O. 1937, c. 8, s. 21 (4). Exceptions as to soldiers' franchise.

Indians

22.—(1) A person who is an unenfranchised Indian of whole or part Indian blood and residing or having his domicile among Indians or on an Indian reserve shall not be entitled to have his name entered on the list of voters or to vote unless he is serving or has served in any country in the naval, military or air forces of Canada or the British Empire or any part or ally thereof in World War I or World War II. 1939 (2nd Sess.), c. 11, s. 3 (3). Indians, when disqualified.

(2) A person alleged by a candidate or by the representative of a candidate to be an Indian or a person of whole or part Indian blood and disqualified from voting under subsection 1, if required by the candidate or his agent or by the deputy returning officer, shall take one of the following oaths in addition to the oath required to be taken by a voter: Special oath.

You swear (*or* solemnly affirm) that you are not an Indian or a person having part Indian blood;

or at his option

You swear (*or* solemnly affirm) that you are an enfranchised Indian;

or at his option

You swear (*or solemnly affirm*) that you do not reside nor is your domicile among Indians or on an Indian reserve;

or at his option

You swear (*or solemnly affirm*) that you served against the King's enemies in World War I or World War II. R.S.O. 1937, c. 8, s. 22 (2); 1939 (2nd Sess.), c. 11, s. 3 (4).

Preparation
of lists on
reserves.

(3) The territory included in an Indian reserve shall be deemed territory without municipal organization, and the lists shall be prepared for such reserve in the manner provided by Part V of *The Voters' Lists Act*. R.S.O. 1937, c. 8, s. 22 (3).

Rev. Stat.,
c. 414.

PROCEEDINGS PRELIMINARY TO ELECTION

DATES FOR NOMINATION AND POLLING

Appoint-
ment of day
for holding.

23.—(1) Where an election is to be held the Lieutenant-Governor in Council may appoint a day, not more than 60 and not less than 25 days after the date of the writs of election, for the nomination of candidates and the seventh day after the nomination day shall be the day on which polling shall take place where a poll is granted.

Date to be
same in all
electoral
districts.

(2) In the case of a general election the nominations shall be held on the same day for all electoral districts and the respective days for the nomination and for the polling shall be stated in the proclamation for the election.

Writs to
bear date on
same day.

(3) The writs for a general election shall be dated on the same day.

Writs to
state dates
of nomina-
tion and
polling.

(4) A writ of election shall state the respective days for the nomination and for the polling, and need not name a return day, but shall be returnable forthwith after the execution thereof. R.S.O. 1937, c. 8, s. 23.

Notification
of appoint-
ment as R.O.

24. Notwithstanding any of the provisions of this Act, the Clerk of the Crown in Chancery may immediately after the direction of a writ of election to a person named therein as returning officer, notify him by telegraphic communication that a writ of election has been directed to him, and such person is hereby empowered to perform any duties prescribed by this Act or *The Voters' Lists Act* although he has not actually received the said writ. R.S.O. 1937, c. 8, s. 24.

SUPPLIES

25.—(1) Before any general or other election, the Clerk of the Crown in Chancery shall procure to be printed in conspicuous characters a notice as to secrecy (Form 5) and shall transmit by post to the returning officer of every electoral district, such number of copies as he may deem sufficient to supply every deputy returning officer with five copies, and the deputy returning officer shall post up one copy in a conspicuous place outside the polling place, and one in a conspicuous place within the polling place, and he shall see that they remain so posted up from the opening to the close of the poll.

Notice as to secrecy.

(2) The notice may be separated from or added to the directions for the guidance of voters in voting (Form 4).

Notice may be separate.

(3) The Clerk of the Crown in Chancery shall also procure from the King's Printer the forms, other than the proclamation of the nomination, prescribed by this Act, or by Part IV of *The Voters' Lists Act*, for each electoral district in sufficient number for the requirements of the election, the label mentioned in subsection 2 of section 146 and such stationery as may be necessary and shall send the same to the returning officer forthwith after the issue of the writ. R.S.O. 1937, c. 8, s. 25.

Supply of forms by King's Printer.

Rev. Stat., c. 414.

26. Immediately after the issue of the writ, the Clerk of the Crown in Chancery shall supply the returning officer with a sufficient number of blank poll books (Form 6) for the purposes of the election having regard to the number of polling places within the electoral district, containing the following blank forms:

Supply of poll books and forms.

1. Commission of deputy returning officer.
2. Oath of deputy returning officer.
3. Commission of poll clerk.
4. Oath of poll clerk.
5. Oath of secrecy.
6. Schedule for "Notes of objections" to ballot papers under section 115.
7. Statement of the poll after counting the ballot papers.
8. Ballot paper account.
9. Oath of deputy returning officer after closing the poll.
10. Oath of poll clerk after closing poll.
11. Certificate of returning officer for outside voters.

R.S.O. 1937, c. 8, s. 26.

27. There shall be transmitted to the returning officer with the writ of election, such number of copies of this Act and of any Acts amending the same as will be sufficient to

Transmission of copies of this Act.

supply him and each deputy returning officer with at least one copy, and every copy shall contain an alphabetical index. R.S.O. 1937, c. 8, s. 27.

RETURNING OFFICERS

Appoint-
ment of
R.O's.

28. A commission shall not be required for the appointment of a returning officer, but the direction of a writ of election to a person named therein as returning officer shall be a sufficient appointment. R.S.O. 1937, c. 8, s. 28.

Writs for
elections.

29. Every writ of election shall be addressed to some person, being a British subject of the full age of 21 years and a resident of the electoral district or of a local municipality any portion of which is included in the electoral district. R.S.O. 1937, c. 8, s. 29.

Refusal or
incapacity
to act.

30. If the person to whom the writ is addressed dies or refuses to act, or is absent or incapacitated or unable from any cause to act, the Lieutenant-Governor in Council may appoint some other person to be returning officer. R.S.O. 1937, c. 8, s. 30.

Where
appointment
is sub-
sequently
superseded.

31. If a writ has been issued to a person whose appointment is afterwards superseded or to a person in whose stead a returning officer has been appointed under section 30, a new writ may be issued or the new returning officer may act under the writ already issued as if the same had been addressed to him, and the validity of the proceedings had or taken under the first appointment shall not be affected by the new appointment; but the new returning officer may appoint a new election clerk and new deputy returning officers, if he thinks fit, in place of the persons, if any, appointed to such offices by the person previously named as returning officer. R.S.O. 1937, c. 8, s. 31.

Persons
excluded
from being
returning
officer, etc.

32.—(1) None of the persons hereinafter mentioned shall be appointed or shall act as returning officer, deputy returning officer, election clerk or poll clerk:

1. Members of the Executive Council.
2. Members of the Parliament of Canada or of the Assembly.
3. Ministers, priests or ecclesiastics under any form or profession of religious faith or worship.
4. Judges of federal or provincial courts.

5. Persons who have served as members of the Assembly in the session next preceding the election, or in the then present session, if the election takes place during a session of the Assembly.

6. Persons who have at any time been found guilty by a competent tribunal of or reported by an election court for corrupt practices.

(2) If any such person acts as returning officer, deputy returning officer, election clerk or poll clerk he shall incur a penalty of \$200.

(3) A contravention of this section shall not affect the validity of the election. R.S.O. 1937, c. 8, s. 32.

Penalty.
Validity of
election not
affected.

33. None of the persons hereinafter mentioned shall be obliged to act as returning officer, deputy returning officer, election clerk or poll clerk:

Exempted
persons.

1. Physicians and surgeons.

2. Millers.

3. Postmasters.

4. Persons 60 years of age or upwards.

5. Persons who have previously served as returning officers. R.S.O. 1937, c. 8, s. 33.

34. Every person not disqualified by this Act who refuses to perform the duty of returning officer after having received the writ of election shall incur a penalty of \$200; unless, having a right to claim the exemption conferred by section 33, he has claimed exemption by letter setting forth the grounds of such exemption and forwarded to the Clerk of the Crown in Chancery within two days next after the receipt of the writ of election. R.S.O. 1937, c. 8, s. 34.

Penalty
for refusal
to act.

35. The returning officer shall, on receiving the writ, forthwith endorse thereon the date of its receipt. R.S.O. 1937, c. 8, s. 35.

Endorse-
ment on
writ.

36. The returning officer shall, before the nomination day, take and subscribe the oath (Form 7), and every returning officer who refuses or neglects to take and subscribe the oath shall incur a penalty of \$40. R.S.O. 1937, c. 8, s. 36.

Oath of
R.O.

Proclamation by
R.O.

37.—(1) The returning officer forthwith after the receipt of the writ shall by proclamation under his hand in the English language (Form 8) declare,

- (a) the place and time fixed for the nomination of candidates;
- (b) the day on which the poll for taking the votes of the voters is to be held in case a poll is granted;
- (c) the polling places fixed by him and the territorial limits to which they respectively apply;
- (d) the time when and the place where he will add up the number of votes given to the several candidates.

When proclamation to be posted up.

(2) The proclamation shall be posted up in the electoral district at least five days before the nomination day, neither the last day of posting up nor the nomination day being reckoned. R.S.O. 1937, c. 8, s. 37.

Place and time of nomination.

38. The place for the nomination of candidates shall be the court house, city or town hall or some other public or private building in the most central or the most convenient place for the majority of the voters of the electoral district, and the time appointed for the nomination of candidates shall be from one o'clock until two o'clock in the afternoon of the day fixed for that purpose. R.S.O. 1937, c. 8, s. 38.

Places of posting up proclamation.

39.—(1) The proclamation shall be posted up,

- (a) at every post office in the electoral district; and
- (b) at least at one other place in every polling subdivision in the electoral district; and
- (c) in a city or town divided into wards, at the city or town hall and in some other public place in each ward in the electoral district, and in other local municipalities, at the town hall or other place where the meetings of the municipal council are held.

In territory without municipal organization.

(2) In territory without municipal organization the proclamation shall be posted up in some public place in the neighbourhood of each place at which a poll is to be held.

May be posted on public or private property.

(3) The proclamation shall be posted up in a conspicuous place and the returning officer may post the same on public or private property as he deems necessary. R.S.O. 1937, c. 8, s. 39.

40. A returning officer refusing or neglecting to cause the proclamation to be posted up as prescribed by this Act shall incur a penalty of \$200. R.S.O. 1937, c. 8, s. 40. Penalty.

41.—(1) Where from any cause the proclamation could not be posted up so as to leave the required delay between the posting up and the nomination day, or the returning officer is unable to hold the nomination on the day fixed for that purpose, he may by proclamation under his hand fix another day for the nomination which shall be the nearest day practicable, after allowing the required delay between the posting up of the proclamation and the nomination day. Unforeseen delays provided for.

(2) The proclamation shall be in the like form and shall be posted up in the like manner as provided in section 37. Form of proclamation.

(3) The polling day shall be the seventh day after nomination day. Polling day.

(4) The returning officer, with his return, shall make to the Clerk of the Crown in Chancery a report of the cause which occasioned the postponement of the election. R.S.O. 1937, c. 8, s. 41. Postponement, report as to cause.

42. Where an election for an electoral district of which Pelee Island or Amherst Island forms part is to be held between the months of October and April and the Lieutenant-Governor in Council is satisfied that communication and travel between Pelee Island or Amherst Island and the mainland is likely to be dangerous or to be interrupted, he may direct that all necessary instructions and information relating to the election be transmitted by telephone, including information as to the number of votes given for each candidate and as to all other matters relating to the election, so as to enable the returning officer to return the candidate having the majority, or to make such other return as the case requires, and the Lieutenant-Governor in Council may make such order for carrying out this section as to him may seem proper. R.S.O. 1937, c. 8, s. 42. Communication with Pelee Island and Amherst Island may be by telephone.

Election Clerk

43.—(1) The returning officer, by a commission under his hand (Form 9), shall, before nomination day, appoint a person having the like qualifications as are required in the case of a returning officer to be his election clerk. Appointment of election clerk.

(2) The returning officer may at any time during the election in the same manner appoint another election clerk if the Death or default of election clerk.

one so appointed dies or refuses or neglects or is unable to perform his duties.

Duties of
election
clerk.

(3) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or refuses or is disqualified or unable to perform his duties and has not been replaced by another, shall act in his stead as returning officer. R.S.O. 1937, c. 8, s. 43.

Oath of
election
clerk.

44. The election clerk shall, before entering upon his duties, take and subscribe the oath (Form 10). R.S.O. 1937, c. 8, s. 44.

Penalty for
refusing
to act.

45. A person appointed election clerk, who refuses to accept the office, or who, having accepted it, refuses or neglects to take and subscribe the oath, or to perform the duties of an election clerk, shall incur a penalty of \$40. R.S.O. 1937, c. 8, s. 45.

Appoint-
ment and
oath to be
on writ.

46. The appointment and oath of an election clerk shall be either endorsed on or attached to the writ. R.S.O. 1937, c. 8, s. 46.

Duties and
liabilities
when acting
as R.O.

47. An election clerk whose duty it becomes to act in the stead of the returning officer shall be subject to the same penalties as the returning officer for his neglect or refusal to perform the duties, and to all the obligations of that office, in like manner as if he had been appointed returning officer, and shall not be required to possess any other qualification or to take the oath (Form 7). R.S.O. 1937, c. 8, s. 47.

Ballot Boxes

Ballot
boxes to be
furnished.

48.—(1) The returning officer shall, on receiving the writ, provide as many ballot boxes as there are polling places within the electoral district.

How made.

(2) The ballot box shall be made of durable material, provided with lock and key, and so constructed that the ballot paper can be deposited therein, and cannot be withdrawn without unlocking the box.

Penalty on
failure to
furnish
boxes.

(3) If the returning officer fails to provide the ballot boxes, he shall incur a penalty of \$100 in respect of every ballot box which he fails to provide. R.S.O. 1937, c. 8, s. 48.

Property of
the Crown.

49. The property in the ballot boxes, ballot papers, marking instruments, books, papers and documents procured for or used at an election, shall be in His Majesty. R.S.O. 1937, c. 8, s. 49.

50. Where it becomes necessary to use the ballot boxes, the returning officer, at least two days before the polling day, shall deliver one ballot box to every deputy returning officer. Delivery of ballot boxes to D.R.O.'s.
R.S.O. 1937, c. 8, s. 50.

51. A deputy returning officer who has not been supplied with a ballot box within the time prescribed in section 50, shall forthwith procure one to be made. Duty of D.R.O. as to ballot box. R.S.O. 1937, c. 8, s. 51.

52. After the close of the election the returning officer shall deliver the ballot boxes used in the election to the several clerks of the municipalities in the electoral district and to the clerk of the peace in the case of territory without municipal organization, and the boxes shall be preserved by them for use at future elections. Return of ballot boxes to municipal clerks and clerk of peace. R.S.O. 1937, c. 8, s. 52.

Polling Subdivisions

53.—(1) In the case of failure of the council to divide a municipality into polling subdivisions, the returning officer shall make the division. When returning officer to make division.

(2) Where the council has divided the municipality into polling subdivisions the returning officer shall not be required to make any change in the boundaries of a polling subdivision. When council has divided municipality.
R.S.O. 1937, c. 8, s. 53.

Polling Places

54.—(1) Subject to subsection 3 of this section, and sections 55 and 56, the returning officer, on receiving the writ, shall fix and provide at least one polling place for each polling subdivision in the most central or most convenient place for the voters, and if the board approves, the polling place may be provided outside the limits of the polling subdivision. Polling places.

(2) A returning officer may in his discretion grant such additional polling places in any polling subdivision as the extent of the subdivision and the remoteness of any body of its voters from the polling place render necessary. Additional polling places.

(3) The returning officer may unite two or more adjoining polling subdivisions and fix one polling place for the united subdivisions. Union of polling subdivisions.

(4) The building in which the poll is held shall not be a tavern or place of public entertainment, and there shall be free access to the poll for every voter. Polling place not to be a tavern.

Additional
polling
places.

(5) Where a polling subdivision contains a greater number of voters than may conveniently vote at one polling place, the returning officer, with the approval of the board, may provide one or more additional polling places in the same building or near to one another, having regard to the total number of voters in the polling subdivision.

Division to
be according
to initial
letter of
voters'
names.

(6) Where there are two or more polling places in a subdivision each polling place shall be designated by the initial letters of the surnames of the voters who are to vote in such polling place, in the following manner, that is to say, from A to M inclusive, and from N to Z inclusive, or as may be determined by the returning officer.

Where
voters
to vote.

(7) Every voter the initial letter of whose surname is included within the letters of the alphabet designating a polling place shall vote in the polling place so designated.

Appoint-
ment of
D.R.O.s
for addi-
tional poll-
ing places.

(8) The returning officer shall appoint a deputy returning officer for each such polling place and deliver to him in due time a polling list to be prepared by the clerk of the peace or the clerk of the municipality, as the case may be, in the manner hereinafter provided, containing the names of all voters on the proper list of voters for the polling subdivision; provided that where the lists are prepared under Part IV of *The Voters' Lists Act*, the returning officer shall deliver to each deputy returning officer for each polling division such list so prepared and certified to be the official list for the polling division.

Rev. Stat.,
c. 414.

Where
village
includes
portions of
two town-
ships in
different
electoral
districts.

(9) Where an incorporated village includes portions of two townships lying in different electoral districts, the board of the county or district in which the village or the larger part of the village is situate shall divide the village into two polling subdivisions and shall include the territory in each electoral district in a polling subdivision, and the board may give such directions to the clerk of the village as it may deem necessary for the separating of the names of the voters in one polling subdivision from the names of voters in the other and for distinguishing between the two classes of names in the voters' list of the village, and the clerk of the peace shall prepare a separate polling list for each of such polling subdivisions. R.S.O. 1937, c. 8, s. 54.

R.O. to
provide
polling
places.

55.—(1) The returning officer shall provide a proper building for a polling place and shall ensure that it is furnished with light and heat and such other accommodation and furniture as may be required.

(2) A polling place may be situate in a schoolhouse, hall or other public building or on private property, or the returning officer may purchase or construct tents or portable booths or movable structures and without charge may set up or erect the same in any street, lane or vacant lot.

Where
polling
places
may be
situate.

(3) The number and location of the polling places shall in all cases be subject to the approval of the board and the chairman of the board shall certify in writing that the number of polling places and their location are necessary and proper.

Number
and location
of polls.

(4) Where it is found that the returning officer has established a polling place which is unnecessary to accommodate the voters and that such polling place has not been approved by the board, the cost to the Province of establishing such poll and the conduct of the polling thereat shall be borne by the returning officer and deducted from his fee.

Cost of
unnecessary
poll.

(5) The sum of \$8 for every building or part of a building used as a polling place and an additional sum of \$4 for every additional polling place situate in the same building shall be payable by the returning officer to the persons entitled thereto. R.S.O. 1937, c. 8, s. 55.

Amount
payable
for polling
places.

Soldiers' Hospitals

56.—(1) Where in any electoral district there is situate a home or hospital or other institution for the reception, treatment or vocational training of disabled soldiers or sailors, a polling place shall be provided in such institution or upon the premises, and, for the purpose of polling, the institution shall be deemed to be a polling place and every inmate or other person resident in the institution who is entered on the polling list shall vote at such polling place.

Polling
places on
premises of
hospitals,
etc.

(2) Where a patient or other inmate of such institution is bed-ridden or is unable to walk, it shall be lawful for the deputy returning officer and poll clerk with the candidates or their agents to attend upon such person for the purpose of receiving his ballot, but a candidate shall not be present where the ballot of any such voter is marked under section 100. R.S.O. 1937, c. 8, s. 56.

Incapaci-
tated
patients.

Voting Compartments

57. Every polling place shall be furnished with compartments in which voters may mark their vallot papers without other persons being able to see how they are marked, and it shall be the duty of the returning officer and the deputy

Compartment-
ments for
voters to
mark
ballots.

returning officer respectively to see that a sufficient number of compartments is provided at each polling place. R.S.O. 1937, c. 8, s. 57.

NOMINATIONS

Proceedings
of the R.O.
on nomina-
tion day.

58.—(1) The returning officer, at the time and place fixed for the nominations shall, in the English language, make or cause to be made, in the presence of the voters there assembled, a proclamation (Form 11), and read or cause to be read publicly, the writ of election, and his commission as returning officer when he has been appointed by commission, and shall then call for nominations or further nominations to be made in writing in the manner hereinafter set out.

Nominations
to be in
writing.

(2) The nomination shall be by writing (Form 12), signed by at least 100 duly qualified electors of the electoral district, and stating the name, residence and legal addition, occupation or description of the person proposed in such manner as sufficiently to identify him, and a person shall be deemed to be a duly qualified elector if he is qualified to be entered on the list of voters as entitled to vote at the election.

Separately
for each
candidate.

(3) Each candidate shall be nominated by a separate nomination paper and a duly qualified elector may sign the nomination papers of different candidates.

When to
be filed.

(4) The nomination paper may be produced to and filed with the returning officer at the time and place fixed by the proclamation, or on either of the two days next preceding that on which the meeting for the nomination of candidates is to be held.

Consent of
candidate.

(5) The nomination paper shall be accompanied by the consent in writing of the person therein nominated, except where such person is absent from Ontario, when such absence shall be stated in the nomination paper.

Certificate
of R.O.
as to
regularity.

(6) Where the nomination paper is filed with the returning officer not later than half-past one o'clock in the afternoon on the day fixed by the proclamation for holding the nomination meeting, by the candidate or his agent, he shall, if requested, then and there examine the same, and if satisfied of the regularity thereof and that it is signed by the proper number of duly qualified electors, he shall so certify in writing, and his certificate shall be final and the validity of the nomination shall not be open to question upon any ground whatever.

Imperfect
nomination
paper.

(7) The returning officer shall not reject any nomination paper which is received before the time fixed for the close of

nomination in the proclamation of the returning officer and which is signed by at least 100 persons purporting to be residents of and electors in the electoral district, and if any nomination paper appears to the returning officer for any reason to be invalid he shall not reject it until he has communicated the facts to the Chief Election Officer and the Chief Election Officer has in writing, signed by him, authorized such rejection, and for the purposes of communicating with the Chief Election Officer the returning officer shall adjourn the proceedings until the hour of one o'clock on the next day following, when he shall at the same place announce the decision of the Chief Election Officer. R.S.O. 1937, c. 8, s. 58.

59. If more candidates than are required to be elected are nominated the returning officer shall grant a poll^{Grant of poll.} for taking the votes, and if he refuses or neglects to do so he shall incur a penalty of \$1,000, and if he declares any candidate to be elected the election shall be void. R.S.O. 1937, c. 8, s. 59.

60. If no more candidates are nominated than are required to be elected, or if by the withdrawal of persons nominated there remain no more candidates than are required to be elected, the returning officer, at the expiration of the time in which nominations may be received, shall close the election and openly proclaim the person or persons so chosen to be duly elected. R.S.O. 1937, c. 8, s. 60.^{Election by acclamation.}

61. The returning officer shall announce at the place and on the day of nomination, and on or immediately after the day of nomination shall publish at the expense of the candidates the names and addresses of their official agents^{Official agents.} in a newspaper published or circulated within the electoral district. R.S.O. 1937, c. 8, s. 61.

62.—(1) A candidate may withdraw at any time after his nomination and before the opening of the poll by delivering to the returning officer a declaration in writing (Form 13) to that effect signed by himself in the presence of a subscribing witness, and any votes cast for a candidate who has so withdrawn shall be null and void, and if, after the withdrawal, there remains but one candidate, the returning officer shall return as duly elected the candidate so remaining.^{Withdrawal of candidate after nomination.}

(2) In the case of a candidate withdrawing where there are more than two candidates, the returning officer shall, if possible, cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted up in a conspicuous place in every polling place in the electoral district. R.S.O. 1937, c. 8, s. 62.^{Idem.}

Death of
candidate.

63. If a candidate dies after being nominated and before the close of the poll, the returning officer shall fix new days for the nomination of candidates, and for polling, and the nomination day shall be the nearest day practicable, after allowing the required delay between the posting up of the proclamation and the nomination day, and with his return he shall make to the Clerk of the Crown in Chancery a report of the cause which occasioned the postponement of the election. R.S.O. 1937, c. 8, s. 63.

R.O. to
proclaim
names of
D.R.O's.

64. Where a poll has been granted, the returning officer, immediately after having granted a poll and before adjourning his proceedings, shall publicly proclaim at the place of nomination as far as practicable the names of the deputy returning officers, and shall on the written request of a candidate furnish him with a list of the deputy returning officers showing the polling place at which each deputy returning officer is to act. R.S.O. 1937, c. 8, s. 64.

POLLING

PROCEEDINGS PRELIMINARY TO THE POLL

Appoint-
ment of
D.R.O's.

65.—(1) The returning officer by a commission under his hand (Form 14) shall appoint a deputy returning officer for every polling place.

D.R.O.
to be a
voter in
local muni-
cipality.

(2) No person shall be so appointed who is not a voter in the local municipality wherein the polling place for which he is appointed is situate, or, in the case of territory without municipal organization, who is not a voter in the electoral district. R.S.O. 1937, c. 8, s. 65.

Oath of
office, etc.

66. Every deputy returning officer, before acting, shall take and subscribe the oath (Form 15). R.S.O. 1937, c. 8, s. 66.

Penalty for
refusing to
perform
duties of
office.

67. A person appointed a deputy returning officer who refuses to accept the office, or who, after having accepted it, refuses or neglects to take and subscribe the oath or to perform the duties of a deputy returning officer, shall incur a penalty of \$100. R.S.O. 1937, c. 8, s. 67.

Death or
absence of
D.R.O.

68. In case of the death, illness or absence of a deputy returning officer or of his refusal or neglect to act, the returning officer may, in the manner hereinbefore provided, appoint another deputy returning officer to act in his stead, and the appointment and oath of the person so appointed shall be endorsed upon or attached to the poll book. R.S.O. 1937, c. 8, s. 68.

69. In territory without municipal organization, polls shall be held at such places as may be fixed by the chief enumerator, subject to the approval of the board. R.S.O. 1937, c. 8, s. 69.

Polling places in districts.

70. Territory comprised within a newly organized municipality for which there is no assessment roll shall be deemed to be territory without municipal organization within the meaning of section 69. R.S.O. 1937, c. 8, s. 70.

Municipality without assessment roll.

71. The returning officer shall deliver to each deputy returning officer, at least two days before the polling day, a blank poll book, forms of oaths to be administered to voters, envelopes and sealing-wax, and a screen, if one is required. R.S.O. 1937, c. 8, s. 71.

Supplies to be furnished by returning officer.

72.—(1) If foolscap paper is used for printing the ballot papers, it shall be of a weight of not less than 16 pounds to the ream, and if large post paper is used it shall be of a weight of not less than 25 pounds to the ream.

Ballot papers, weight.

(2) The paper used shall contain a secret thread or other mark so placed as to run through each column of ballots ruled on every sheet of the ballot paper furnished.

Paper to show secret marking.

(3) The manufacturer of the paper shall be required to furnish security in such amount as may be fixed by the Lieutenant-Governor in Council that none of the paper manufactured for use in printing the ballots will be supplied by him to any person other than the King's Printer, and upon the delivery of the paper the number of sheets shall be counted by the King's Printer and a receipt therefor in writing signed by the King's Printer shall be given to the manufacturer.

Security to be furnished by manufacturer.

(4) The paper required for the printing of the ballot papers shall be furnished to the Clerk of the Crown in Chancery by the King's Printer from time to time as may be required, and the King's Printer and the Clerk of the Crown in Chancery shall check the number of sheets of ballot paper so furnished and the Clerk of the Crown in Chancery shall give to the King's Printer a receipt in writing signed by him.

King's Printer to furnish paper to Clerk of the Crown in Chancery.

(5) The Clerk of the Crown in Chancery shall personally deliver or transmit by express in a box or boxes locked and sealed with his seal to the returning officer for each electoral district a sufficient number of sheets of the paper for the printing of the ballots and the returning officer shall upon receipt of the same count the sheets and forward his receipt therefor (Form 17) to the Clerk of the Crown in Chancery.

Supply to be furnished to R.O.

R.O. to see to
printing of
ballots.

(6) The returning officer shall procure to be printed on the paper furnished to him, as hereinafter provided, a sufficient number of ballot papers, not being less than the total number of voters in the electoral district.

R.O. to
give receipt
for ballot
paper.

(7) The printer shall count the sheets of ballot paper delivered to him and shall give a receipt therefor (Form 18) to the returning officer, and the returning officer shall transmit it with the other papers relating to the election to the Clerk of the Crown in Chancery.

Form of
ballot.

(8) The names of the candidates, alphabetically arranged in the order of their surnames, shall be printed on the ballot paper (Form 16), and it shall be provided with a counterfoil and a stub, and there shall be a line of perforations between the ballot and the counterfoil and between the counterfoil and the stub.

Numbering
ballot
papers.

(9) The ballot papers shall be numbered on the back of the stub and the counterfoil, the same number being printed or written on the stub as on the counterfoil, and shall be bound or stitched in books containing 25, 50 or 100 ballot papers, as may be most suitable for supplying the polling subdivisions proportionately to the number of voters in each.

Uniformity.

(10) All ballot papers shall be of the same description and as nearly alike as possible.

Printer's
name.

(11) The ballot papers shall bear upon the back the name of the printer who printed them.

Affidavit
of printer.

(12) The printer shall with the ballot papers deliver to the returning officer an affidavit (Form 19). R.S.O. 1937, c. 8, s. 72.

Supply to
D.R.O's.

73. The returning officer shall furnish each deputy returning officer with a sufficient number of ballot papers to supply the voters on the polling list of his polling place or polling subdivision, and a certificate of the number of ballot papers with the necessary materials for voters to mark their ballot papers, and he shall when delivering the same make a record of the numbers on the ballots delivered to each deputy returning officer and this record shall be returned to the Clerk of the Crown in Chancery along with other documents required to be returned to him. R.S.O. 1937, c. 8, s. 73.

Copies of
directions
to voters for
D.R.O's.

74.—(1) The returning officer shall furnish each deputy returning officer with at least three copies of the printed directions (Form 4) for the guidance of voters in voting, and the deputy returning officer shall, before or at the opening of

the poll, on the day of polling, cause such printed directions to be posted up in conspicuous places outside of the polling place, and also in each compartment of the polling place.

(2) Immediately upon receipt of the ballot papers from the returning officer, the deputy returning officer shall count the same and forward the receipt therefor (Form 20) to the returning officer. R.S.O. 1937, c. 8, s. 74. Receipt to be given by D.R.O.

75. The Clerk of the Crown in Chancery, before each general election and at least once in every year, shall cause a check to be made of all ballot paper furnished to him, and such paper shall be kept at all times under lock and key and no one shall have access to the place in which it is kept except the Clerk of the Crown in Chancery or some person acting directly under his authority. R.S.O. 1937, c. 8, s. 75. Custody of ballot paper.

Preparation of Polling Lists by Clerk of the Peace

76.—(1) Every returning officer upon granting a poll shall forthwith obtain from the clerk of the peace a sufficient number of copies of the polling list for each polling subdivision in the electoral district to provide one copy for the use of the returning officer, one copy for each of the deputy returning officers and six copies for each of the candidates at the election, and the polling list shall contain the names of all persons qualified to vote at the election in that polling subdivision and no other, and the returning officer shall immediately cause the polling lists and copies to be delivered to the deputy returning officers and candidates respectively. Polling lists.

(2) Except where the Chief Election Officer otherwise directs, the clerk of the peace shall cause the polling lists prepared by him to be printed on one side of the paper only, and the polling list for each polling subdivision shall contain in one list the names of all persons qualified to vote at the election in that polling subdivision arranged in alphabetical order or according to street numbers where the council has so directed as provided in *The Voters' Lists Act*. Idem. Rev. Stat., c. 414.

(3) Where a returning officer, instead of subdividing a polling subdivision, provides additional polling places he shall obtain from the clerk of the peace as many polling lists as may be necessary for such additional polling places. Lists for additional polling places.

(4) Where the Chief Election Officer so directs, the clerk of the peace shall prepare for revision by the revising officers as provided in *The Voters' Lists Act*, a list, prepared alphabetically or by street numbers, containing the names of all persons Alphabetical list to be prepared by clerk of the peace.

entitled to vote at elections to the Assembly in the polling subdivision as shown upon Part I and Part III of the voters' list, and notwithstanding anything in *The Voters' Lists Act* the list so prepared shall be the list to be revised by the revising officers and shall be posted up and revised and certified in the same manner as lists prepared, revised and certified under *The Voters' Lists Act*.

Rev. Stat.,
c. 414.

List to be
set up in
type.

(5) To avoid expense to the municipalities concerned and to the Province, after the preparation of the list the Chief Election Officer may direct that it shall be typewritten, set up in type and the type kept standing until after the revision and the changes made upon the revision incorporated in the list. R.S.O. 1937, c. 8, s. 76 (1-4).

Polling list.

(6) The lists as so prepared, revised and certified shall be the polling lists to be delivered to the deputy returning officers for use at the polling places.

Special
directions.

(7) Where it appears to the Chief Election Officer that it is impracticable to carry out any of the provisions of the preceding subsections of this section, he may cause such arrangements to be made for preparing the polling list as he may deem proper under the circumstances, and it shall be the duty of the clerk of the peace to carry out any directions or instructions given by the Chief Election Officer under this section, but nothing in this section shall authorize any name to be placed upon or omitted from the polling list which is not contained in Part I or Part III of the voters' list prepared by the clerk of the municipality except so far as may be necessary to give effect to the changes made upon the revision of the list by the revising officer.

Polling lists
prepared
under
Part IV of
*The Voters'
Lists Act*.

(8) In all cases where the polling lists are prepared in the manner provided by Part IV of *The Voters' Lists Act*, such lists as so prepared, revised and certified shall be the polling lists to be delivered to the deputy returning officers for use at the polling divisions and shall be the lists to be used for the election, and each list so delivered to the deputy returning officers shall have endorsed thereon a certificate by the returning officer that it contains the names of all persons appearing on the polling list as finally revised by the revising officer for the polling division to which it relates, to be entitled to vote at the election in the polling division or at that polling place and no other, and notwithstanding section 95 no person shall be entitled to vote at any election unless his name is duly entered on such polling list. R.S.O. 1937, c. 8, s. 76 (6-8).

77. Subject to subsection 8 of section 76, the clerk of the peace shall add to each polling list a certificate that it contains the names of all persons appearing, according to the proper voters' list, to be entitled to vote at the election in that polling subdivision or at that polling place and no other names. R.S.O. 1937, c. 8, s. 77. Certificate of clerk of peace.

Poll Clerks

78.—(1) The deputy returning officer shall by a commission under his hand (Form 22) appoint a poll clerk to assist him in taking the poll, and the poll clerk before acting shall take and subscribe the oath (Form 21). Appointment of poll clerks.

(2) Every person appointed poll clerk who refuses to accept the office, or who, after having accepted it refuses or neglects either to take and subscribe the oath or to perform the duties of a poll clerk, shall incur a penalty of \$40. Penalty.

(3) No person shall be appointed poll clerk who is not a voter in the local municipality wherein the polling place to which he is appointed is situate, or, in the case of territory without municipal organization, who is not a voter in the electoral district. R.S.O. 1937, c. 8, s. 78. Poll clerk to be a voter in local municipality.

79. The poll clerk shall assist the deputy returning officer in the performance of the duties of his office, and shall obey his orders. R.S.O. 1937, c. 8, s. 79. Duties of poll clerk.

80. If the deputy returning officer refuses or neglects to perform the duties of his office, or from any cause becomes unable to perform them, and if no other deputy returning officer appointed by the returning officer appears at the polling place, the poll clerk, under the same penalties as are hereinbefore imposed in like cases on a deputy returning officer, shall act as deputy returning officer and perform all the duties and be subject to all the obligations of that office, without taking the oath of a deputy returning officer. R.S.O. 1937, c. 8, s. 80. To act as D.R.O. in certain cases.

81. Where a poll clerk acts as deputy returning officer he may appoint by a commission under his hand (Form 22) another person as poll clerk, to assist him in the performance of the duties of his office, and may administer to him the oath, and such commission and oath shall be endorsed on or attached to the poll book. R.S.O. 1937, c. 8, s. 81. Appointment of another poll clerk in such case.

82. If a poll clerk refuses or neglects to perform the duties of his office or from any cause becomes unable to perform them, the deputy returning officer may appoint another Appointment of poll clerk in certain cases.

person as poll clerk, and the commission and the oath shall be endorsed on or attached to the poll book. R.S.O. 1937, c. 8, s. 82.

Constables

Constable
at polling
place.

83. The deputy returning officer may appoint a constable to preserve order at the polling place, but such appointment shall not be made unless it has been authorized in writing by the returning officer, or a breach of the peace or a violation of the law is threatened or anticipated. R.S.O. 1937, c. 8, s. 83.

Where Voters to Vote

Voter to
vote in
subdivision
in which he
resides.

84.—(1) Subject to section 85, if the name of a person entitled to vote is entered on the polling list for more than one polling subdivision he shall vote only at the polling place for the subdivision in which he resides at the time of the polling, if entitled to vote in such subdivision.

Where voter
to vote in
unorganized
territory.

Rev. Stat.,
c. 414.

(2) Subject to section 85, where a voters' list has been prepared under Part V of *The Voters' Lists Act*, every person named therein may vote at the polling place on the list for which he is entered and not elsewhere.

Penalty.

(3) A person who votes in contravention of this section shall incur a penalty of \$200. R.S.O. 1937, c. 8, s. 84.

Deputy,
poll clerk
and agents
may vote at
polling
places
where
they are
employed.

85.—(1) The returning officer, on the request of any person entitled to vote who has been appointed deputy returning officer or poll clerk or agent of any of the candidates at a polling place other than the one at which he is entitled to vote, shall give him a certificate (Form 23) that he is entitled to vote at the polling place at which he is stationed during the polling day, and the certificate shall bear the date upon which it is signed by the returning officer.

When
certificate
for that
purpose
may be
given.

(2) The returning officer shall not give the certificate until he has ascertained by reference to the polling list that the applicant is entitled to vote and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling subdivision or polling place in which the applicant appears by the polling list to be entitled to vote, and the person to whom the certificate has been given shall not thereafter be entitled to vote in such polling subdivision or polling place.

At what
time.

(3) The returning officer shall not be required to give the certificate unless requested to do so at least two days before polling day.

(4) The certificate shall name the polling place at which the person is to be permitted to vote. Polling place to be designated.

(5) The returning officer shall enter in a list the name, residence and occupation of every person to whom he gives a certificate under this section, the polling place at which the person is authorized to vote under the certificate, and the polling subdivision or polling place in or at which the person appears by the polling list to be entitled to vote, and state therein whether the certificate is granted to him as deputy returning officer, poll clerk or agent, and if as agent, the name of the candidate for whom he is agent, and the entry shall be made before the certificate is delivered. R.O. to keep a list of persons obtaining certificates.

(6) The returning officer shall also enter in the list the name of every person applying for a certificate to whom it was refused with the ground of refusal, and, if the last-mentioned person claimed to be the agent of a candidate, the name of the candidate, and the list shall be open to inspection by a candidate or by his agent or by a voter. Entry of refusal of certificate.

(7) A returning officer shall not give certificates to more than two agents of the same candidate at one polling place and he shall not give a certificate under this section except upon the personal or written request of the applicant, and a returning officer who gives a certificate in contravention of this subsection shall incur a penalty of \$400. R.S.O. 1937, c. 8, s. 85. Limitation of number of certificates to agents.

86.—(1) On the production of the certificate the voter shall have the right to vote at the polling place named therein; but the certificate shall not entitle a voter to vote there unless he has been actually engaged there as deputy returning officer, poll clerk or agent during polling day, or entitle an agent to vote who is disqualified under section 16. On production of certificate of R.O.

(2) A person who receives a certificate, whether a deputy returning officer, poll clerk or agent, shall not vote until he has taken one or other of the oaths of qualification, and any person violating this subsection shall incur a penalty of \$400, and every vote cast in contravention of this subsection shall be null and void. Person receiving a certificate to take oath of qualification before voting.

(3) The oath shall be administered to a deputy returning officer by the poll clerk, and to a poll clerk or agent by the deputy returning officer. Before whom oath to be taken.

(4) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book (Form 6), opposite the name, residence and occupation of every person, including himself if he so votes, voting under the authority of a certificate, the words "Voted under Certificate". Entry on list of persons voting under authority of a certificate.

Certificate
to be
delivered
by person
voting.

(5) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot paper.

Preservation.

(6) The deputy returning officer shall enclose all certificates in one envelope. R.S.O. 1937, c. 8, s. 86.

THE POLL

Hours of
polling
generally.

87.—(1) Subject to subsection 2, the polls at every election to the Assembly shall open at eight o'clock in the forenoon and shall be kept open until seven o'clock in the afternoon of the same day and the voting shall be by ballot in the manner provided by this Act.

When board
may provide
for earlier
opening.

(2) Where the board deems it desirable for the convenience of workmen or of persons residing at a distance from the place at which their ordinary calling or business is carried on, that the polls should be opened in any municipality or electoral district at an earlier hour than eight o'clock in the forenoon the board may direct that the polls shall be opened in such municipality or electoral district at any time earlier than eight o'clock, but not earlier than six o'clock in the forenoon, as the board may deem expedient. R.S.O. 1937, c. 8, s. 87.

Advance Polls

Advance
polls for
railway
employees,
travellers
and sailors.

88.—(1) The Lieutenant-Governor in Council may by order declare that the following subsections of this section shall apply to any electoral district or to any municipality in an electoral district, and thereafter and while the order remains in force polls shall be provided at an election to the Assembly or the voting upon any question submitted to the electors of Ontario for receiving the votes of railway employees, sailors and travellers whose employment is such as to necessitate their absence from time to time from their ordinary place of residence, or who have reason to believe that they will be absent upon the day fixed for polling at such election or upon such question.

When polls
to be open.

(2) For the purpose of enabling such railway employees, sailors and travellers to vote, polls shall be held and kept open from eight o'clock in the forenoon until five o'clock in the afternoon, and from seven o'clock in the afternoon until ten o'clock in the afternoon on the two days immediately preceding that on which the poll is held.

Number of
polls and
appointment
of officers.

(3) The Lieutenant-Governor in Council shall fix the number of polls to be so opened in the electoral district or

municipality and the returning officer shall fix the polling places and shall appoint a deputy returning officer and poll clerk to hold each poll.

(4) Notice of the times and places at which polls shall be opened (Form 24) shall, prior to the day so fixed for holding the poll, be given by the returning officer by posting up notices at each of the polling places so appointed, and in a conspicuous place in the municipality, and where possible, by advertisement in a newspaper published in the electoral district or municipality. ^{Notice of polls.}

(5) Ballot boxes and ballot papers and a certified voters' list containing all the printed lists for the electoral district or so many as may be required for the purpose of the poll shall be supplied by the returning officer to the deputy returning officer together with poll books, forms of oath and other documents required for the purpose of the polls. ^{Furnishing material and supplies.}

(6) Every person offering himself as a voter at the polling place before being allowed to vote shall be required by the deputy returning officer to make the following declaration, which shall be kept by the deputy returning officer with the other records of the poll: ^{Declaration by voter.}

I,, declare that I am at present employed by the railway company (*or as the case may be*) and that I expect in the course of my employment to be absent from my usual place of residence on the day for holding the poll at the coming election.

Dated at, this day of, 19....

.....
(Name of Voter)

Witness:

Deputy Returning Officer.

(7) Every person signing any such declaration knowing that the statements therein are false shall incur a penalty of not less than \$25 and not more than \$100. ^{Penalty.}

(8) The poll clerk shall record in the poll book in the column headed "Remarks" after the name of each person who votes a note that he has signed the declaration and the number of the polling subdivision in which he is entered on the voters' list. ^{Record of declaration.}

(9) No person shall be entitled to vote unless his name appears on the last revised voters' list for the electoral district. ^{Voter's name must be on list.}

Voter may
be sworn.

(10) The deputy returning officer and any candidate or his agent may require that the voter, before being handed a ballot, take the proper oath to be administered to a voter.

Procedure
after close
of poll.

(11) The ballot box shall not be opened after the opening of the poll until seven o'clock in the afternoon of the general polling day, but on adjourning the poll each day the deputy returning officer and any candidate or agent present who desires to do so shall affix his seal to the ballot box in such a manner that it cannot be opened or any ballot be deposited in it without breaking the seals.

List of
persons who
voted to be
sent to R.O.

(12) At the close of the poll the deputy returning officer shall forthwith make up and deliver to the returning officer a list of the names of all persons who have voted, showing in each case the number of the polling subdivisions in which the voter is entered on the voters' list, and the returning officer shall, at the request of any candidate, furnish him with a copy of the list.

Opening
ballot boxes
and count-
ing ballots.

(13) On polling day the deputy returning officer shall in the presence of such candidates and their agents as may be present at the hour fixed for the closing of the poll open the ballot boxes, count the votes and perform all the other duties required of deputy returning officers by sections 113 to 120. R.S.O. 1937, c. 8, s. 88.

Mariners Voting by Proxy

Mariner's
right to vote
by proxy.

89.—(1) Where the name of a person is entered on the voters' list for a polling subdivision as entitled to vote at elections to the Assembly and he is a mariner he shall be entitled to vote by proxy as provided in this section.

Appoint-
ment of
proxy.

(2) A mariner may appoint in writing (Form 25) a proxy who shall be the wife, husband, parent, brother, sister or child of the mariner, of the full age of 21 years and an elector entitled to vote in the electoral district in which the mariner is qualified to vote.

Term of
appoint-
ment.

(3) The appointment of a proxy shall name the person authorized to vote at an election for which a writ has been issued for the electoral district and no appointment of a proxy shall be valid unless it is made after the date of the issue of the writ of election nor shall it remain in force after the return of the writ.

Application
of proxy to
be entered
on list.

(4) A person who has been appointed a voting proxy may apply to the revising officer at the sittings held for the revision

of the lists in accordance with *The Voters' Lists Act* in the municipality in which the mariner is entitled to vote, to be entered upon such list. Rev. Stat., c. 414.

(5) The revising officer shall take evidence on oath as to the right of the mariner to vote in the subdivision of the municipality upon the list of which his name is entered and as to the qualifications of the voting proxy, and if he finds that the mariner is duly qualified and that the voting proxy is qualified to act for him, he shall give a certificate across the face of the appointment of the voting proxy to that effect (Form 26), and shall cause the name of the voting proxy to be entered on the voters' list after the name of the mariner. Evidence to be taken by revising officer.

(6) No more than one person shall be appointed a voting proxy on behalf of a mariner at the same election. Not more than one proxy.

(7) A ballot paper shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the revising officer thereon as provided in subsection 5, and takes the oath (Form 27). Oath on voting.

(8) The deputy returning officer shall record in the poll book the fact that the mariner voted by proxy, showing the name of the proxy, and shall file the proxy and certificate with the election papers and return them to the returning office in the envelope provided for that purpose. Record of voting by proxy.

(9) The Lieutenant-Governor in Council may prescribe any further or other forms which he may deem necessary for the purposes of this section and may make regulations as to the mode in which proxies may be given and generally for the better carrying into effect of this section and preserving the secrecy of voting in pursuance thereof. Forms and regulations.

(10) A person who has been appointed as a voting proxy shall be entitled to vote in his own right in the electoral district notwithstanding that he has voted as a proxy for a mariner. Proxy may vote in own right.

(11) Every person who, Offences.

(a) attempts to vote at an election otherwise than by means of such voting proxy while the appointment of such voting proxy is in force; or

(b) votes or attempts to vote at any election under the authority of an appointment as a voting proxy when he knows or has reasonable grounds for supposing

that the appointment has been cancelled or that the voter by whom the appointment has been made is dead or no longer entitled to vote,

shall be guilty of an illegal practice within the meaning of this Act and shall incur a penalty of \$200 and shall be imprisoned for six months. R.S.O. 1937, c. 8, s. 89.

Voting by Ballot

Voting
to be by
ballot.

90. The votes shall be given by ballot. R.S.O. 1937, c. 8, s. 90.

Procedure at Poll

Attendance
of D.R.O.

91.—(1) The deputy returning officer shall attend at the polling place at least 15 minutes before the hour fixed for opening the poll.

Counting
ballots
before
opening
of poll.

(2) During such 15 minutes, agents and voters entitled to be present in the polling place during polling hours shall be entitled to have the ballot papers intended for use thereat counted in their presence before the opening of the poll, and to inspect the ballot papers, and all other papers, forms and documents relating to the poll. R.S.O. 1937, c. 8, s. 91.

Deputy to
show box
empty, and
lock and
seal it.

92. The deputy returning officer shall, immediately before opening the poll, show the ballot box to such persons as are present in the polling place so that they may see that it is empty, and he shall then lock the box and place his seal upon it in such manner as to prevent its being opened without breaking the seal, and he shall then place and shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed. R.S.O. 1937, c. 8, s. 92.

One voter
only for
each com-
partment.

93. Not more than one voter for each compartment shall at any one time enter the room where the poll is held, and each voter upon so entering shall declare his name, place of residence and occupation, which particulars shall be entered in the poll book by the poll clerk, a consecutive number being prefixed to the name. R.S.O. 1937, c. 8, s. 93.

Persons on
polling list
to be
allowed to
vote on
taking oath
if required.

94. Subject to sections 86 and 95, the deputy returning officer shall not receive the vote of any person whose name is not entered on the polling list, but shall receive the vote of every person whose name is entered thereon, if such person, where required by a candidate or his agent, or by the deputy

returning officer, takes the oath of qualification (Forms 1, 29 and 30) and the oath of allegiance (Form 28) or whichever is required to be taken. R.S.O. 1937, c. 8, s. 94.

95.—(1) The following provisions of this section shall apply in the case of a polling subdivision in a township or village and in a town having a population of not more than 3,500 according to the last Dominion census, provided that the polling subdivision is not within five miles of a city having a population of 100,000 or over. Application of subs. 2, 3, 4.

(2) The deputy returning officer, if required by any person whose name is not on the polling list and who is vouched for by an elector whose name is on the polling list and who is resident in the polling subdivision, shall administer to such person an oath in the following form: Omission of name from polling list, voting when vouched for.

You swear that your name is (*full name of applicant*) that you reside at (*give street number, lot, concession, etc.*) and that your name as you verily believe has been omitted in error from the polling list. So help you God.

and to such elector the deputy returning officer shall administer an oath in the following form:

You swear that your name is (*full name of voter*), that you reside at (*give street number, lot, concession, etc.*) and that you are the person named by the said name on the polling list.

That you well know (*insert name of applicant*) and that he is as you believe duly qualified to be entered on the polling list and to vote at this election. So help you God.

(3) The deputy returning officer shall then administer to the applicant the oath of allegiance (Form 28) and the proper oath to be administered to voters (Form 29 or 30) (leaving out paragraph 1 in this oath), and shall cause the applicant's name to be added to the polling list with the word "sworn" written thereafter. Voter to take oath.

(4) The applicant upon taking the oath and being so vouched for shall be entitled to vote. R.S.O. 1937, c. 8, s. 95. Right to vote.

96. If a deputy returning officer votes at the polling place at which he has been appointed to act, the poll clerk or in his absence the agent of a candidate authorized to be present may administer to him the oath to be taken by a voter. Administration of oath to D.R.O. voting at his polling place.
R.S.O. 1937, c. 8, s. 96.

97.—(1) Where a deputy returning officer has reason to believe that a person offering to vote is not a qualified voter or has already voted, or tenders his vote under a false name When D.R.O. to swear voter.

or designation or personates or represents himself falsely as being upon the polling list, the deputy returning officer shall administer the prescribed oath to the voter, whether he has been required to do so or not.

Penalty.

(2) Every deputy returning officer who acts in contravention of this section shall incur a penalty of \$200. R.S.O. 1937, c. 8, s. 97.

D.R.O. to put initials on back of ballot paper and number on counterfoil.

98. Every person who is entitled to vote shall receive from the deputy returning officer a ballot paper on the back of which the deputy returning officer has previously put his initials so placed as indicated in Form 16 that when the ballot is folded they can be seen without opening it, and on the back of the counterfoil of which he has placed a number corresponding to that placed opposite the voter's name in poll book. R.S.O. 1937, c. 8, s. 98.

Instructions to voter.

99. The deputy returning officer shall, upon request of the voter, instruct him how to mark and fold his ballot paper, but without inquiring or seeing for whom he intends to vote except in the cases provided for by section 100. R.S.O. 1937, c. 8, s. 99.

Voter incapacitated by blindness, etc.

100.—(1) The deputy returning officer on the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, shall require the voter making the application to take an oath (Form 31) of his incapacity to vote without assistance, and shall thereafter assist the voter by marking his ballot paper in the manner directed by the voter in the presence of the sworn agents of the candidates, or of the sworn electors representing the candidates in the polling place and of no other person, and place the ballot in the ballot box.

Blind voter's ballot marked by friend.

(2) The deputy returning officer shall either deal with a blind voter in the same manner as with an illiterate or otherwise incapacitated voter, or at the request of any blind voter who has taken the oath (Form 31), and is accompanied by a friend, shall permit the friend to accompany the blind voter into the voting compartment and mark the voter's ballot for him.

Oath of friend.

(3) Any friend who is permitted to mark the ballot of a blind voter as aforesaid, shall first be required to take an oath (Form 32) that he will keep secret the name of the candidate for whom the ballot of the blind voter is marked by him, and no person shall at any polling place be allowed to act as the friend of more than one blind voter.

(4) The deputy returning officer shall enter in the column ^{Entry in} for remarks in the poll book opposite the voter's name, the ^{poll book.} reason why the ballot paper was marked by him, or by a friend of the voter. R.S.O. 1937, c. 8, s. 100.

101.—(1) Where a voter does not understand the English ^{Voters who} language the deputy returning officer may employ an in- ^{cannot}terpreter to translate the oath as well as any lawful questions ^{speak} necessarily put to the voter, and his answers, and the in- ^{English.}terpreter shall take the following oath:

I swear (*or affirm*) that I will faithfully translate such oaths, declarations, questions and answers as the deputy returning officer shall require me to translate at this election. So help me God.

(2) If no interpreter is found or presents himself at the ^{If no in-} polling place the voter shall not be allowed to vote. R.S.O. ^{terpreter,} 1937, c. 8, s. 101. ^{no vote.}

102. The voter on receiving his ballot paper shall forth- ^{Mode of}with proceed into one of the compartments of the polling ^{marking,} place and there mark his ballot paper, making a cross with ^{folding and} a black lead pencil within the white space containing the ^{depositing} name of the candidate, or within the white spaces containing ^{ballot paper.} the names of the candidates for whom he intends to vote, and shall then fold the ballot paper so that the initials on the back of it and the number on the counterfoil can be seen without opening it, and hand it to the deputy returning officer, who shall, without unfolding it, ascertain by examining his initials, and the number on the counterfoil, that it is the same ballot paper that he furnished to the voter, and shall then, in full view of all present, including the voter, remove the counterfoil and tear up or otherwise destroy it and place the ballot paper in the ballot box. R.S.O. 1937, c. 8, s. 102.

103. The poll clerk shall enter in the poll book opposite the name of each voter voting the word "Voted" as soon as ^{Entries to} the ballot paper has been deposited in the ballot box, and ^{be made in} shall enter in the same book the word "Sworn" or "Affirmed" ^{poll book as} opposite the name of each voter to whom the oath has been ^{to voters.} administered, and the words "Refused to be sworn" or "Refused to affirm" opposite the name of each voter who has refused to take any oath when he has been required so to do. R.S.O. 1937, c. 8, s. 103.

104.—(1) A person who has refused to take the oath when ^{Voter} required so to do shall not receive a ballot paper or vote, ^{refusing} and the vote of such person if taken and received shall be null ^{to be sworn.} and void.

Penalty for receiving such vote.

(2) Every deputy returning officer who receives such vote or causes it to be received, shall incur a penalty of \$200. R.S.O. 1937, c. 8, s. 104.

Voter to leave as soon as possible.

105. The voter shall vote without undue delay and shall leave the polling place as soon as his ballot paper has been placed in the ballot box. R.S.O. 1937, c. 8, s. 105.

Exclusion from ballot-ing compartment.

106. While a voter is in a compartment for the purpose of marking his ballot paper no other person shall be allowed to enter the compartment or to be in a position from which he can see for whom the voter marks his ballot paper. R.S.O. 1937, c. 8, s. 106.

Voter not to take his paper from polling place, etc.

107. A person who has received a ballot paper shall not take it out of the polling place, and a person who receives a ballot paper and leaves the polling place without delivering it to the deputy returning officer, or returns his ballot paper declining to vote, shall forfeit his right to vote, and the deputy returning officer shall make an entry in the poll book in the column for remarks, to the effect that the person received a ballot paper, but took it out of the polling place or returned it declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "Declined" upon the ballot paper, and shall preserve it to be returned to the returning officer. R.S.O. 1937, c. 8, s. 107.

Voter who alleges he has been personated.

108.—(1) If a person representing himself to be a voter applies for a ballot paper after another person has voted as such voter, he shall be entitled to receive a ballot paper and to vote after taking the oath, and otherwise establishing his identity to the satisfaction of the deputy returning officer.

Initials and number to be put on back.

(2) The deputy returning officer shall put on the back of the ballot paper his initials and a number corresponding to the number entered on the poll book opposite the name of the voter.

Name of voter, etc., to be entered in poll book.

(3) The name of the voter shall be entered on the poll book and a note shall be made on his having voted on a second ballot paper and of the fact of the oath having been taken and of any objections made on behalf of any and of which of the candidates. R.S.O. 1937, c. 8, s. 108.

Where ballot paper accidentally spoilt.

109. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used shall, upon returning it to the deputy returning officer, be entitled to obtain another ballot paper, and the deputy

returning officer shall immediately write the word "Cancelled" upon the first-mentioned ballot paper and preserve it to be returned to the returning officer. R.S.O. 1937, c. 8, s. 109.

110. A person who applies for a ballot paper shall by so doing be deemed to have tendered his vote or to have offered to vote, and a person who has placed or caused to be placed his ballot paper in the ballot box, or has delivered it to the deputy returning officer or poll clerk for the purpose of having it placed in the ballot box shall be deemed to have voted. R.S.O. 1937, c. 8, s. 110.

What shall be deemed a tender of a vote and a voting.

111.—(1) In addition to the deputy returning officer, the poll clerk, the constable or constables, the candidates and their agents, not exceeding two in number for each candidate, and, in the absence of agents, two voters to represent each candidate on the request of such voters, and no others shall be permitted to remain in the polling place during the time the poll remains open and at the counting of the votes.

Who may be in polling place.

(2) An agent bearing a written authorization from the candidate shall always be entitled to represent him in preference to, and to the exclusion of any two voters who might otherwise claim the right of representing the candidate. R.S.O. 1937, c. 8, s. 111.

Right of authorized agent.

112. A voter entitled to vote within a city or town shall, on the day of polling, be entitled to absent himself for the purpose of voting from any service or employment in which he is then engaged or employed, from the hour of noon until the hour of two o'clock next thereafter, or from the hour of four o'clock in the afternoon until the hour of six o'clock next thereafter, and a voter shall not, because of his so absenting himself, be liable to any penalty, or suffer or incur any reduction from the wages or compensation to which but for his absence he would have been entitled, but this section shall not apply where a voter is by his employer permitted or allowed at any other period during the hours of polling, reasonable and sufficient time and opportunity to vote. R.S.O. 1937, c. 8, s. 112.

Right of employee to time for voting.

PROCEEDINGS AFTER CLOSE OF THE POLL

113. Immediately after the close of the poll, the deputy returning officer shall first place all the cancelled and declined ballot papers in separate envelopes and seal them up, and shall then count the number of voters whose names appear by the poll book to have voted, and make an entry thereof

Duties of D.R.O. after close of poll.

on the line immediately below the name of the voter who voted last, thus: *The number of voters who voted at this election in this polling place is (stating the number)*, and he shall sign his name thereto; then, in the presence and in full view of the persons entitled to be present, he shall open the ballot box and proceed to count the number of votes for each candidate, giving full opportunity to those present to examine each ballot paper. R.S.O. 1937, c. 8, s. 113.

What ballot papers to be rejected in counting votes.

114. In counting the votes the deputy returning officer shall reject all ballot papers, herein called "Rejected ballot papers",

- (a) which have not been supplied by him; or
- (b) by which votes have been given for more candidates than are to be elected; or
- (c) upon which there is any writing or mark by which the voter can be identified, other than the number placed thereon by the deputy returning officer in the case provided for by section 108,

but no word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot paper, shall avoid the same or warrant its rejection. R.S.O. 1937, c. 8, s. 114.

Objections to be noted,

115.—(1) The deputy returning officer shall make a note of every objection taken to a ballot paper by a candidate, or his agent or a voter present, and shall decide the objection subject to review on recount or on petition questioning the election or return.

and numbered and initialled.

(2) Each objection shall be numbered and a corresponding number placed on the back of the ballot paper and initialled by the deputy returning officer. R.S.O. 1937, c. 8, s. 115.

How ballots to be counted.

116.—(1) All the ballot papers not rejected by the deputy returning officer shall be counted and an account of the number of ballots cast for each candidate, and of the number of rejected and cancelled ballot papers, and all the ballot papers indicating the votes given for each candidate respectively shall be put into separate envelopes.

Ballot papers to be put into parcels under seal.

(2) All rejected and unused ballot papers respectively shall be put into separate envelopes, which shall be endorsed so as to indicate their contents, and shall be sealed by the deputy returning officer, and any agent present may write his signature

across the flap of the envelope and may also affix his seal.
R.S.O. 1937, c. 8, s. 116.

117.—(1) The deputy returning officer shall make out a statement in triplicate (Form 33), one part to remain attached to the poll book, another to be retained by him, and the third to be enclosed by him in a special envelope supplied for the purpose, which he shall seal and deposit in the ballot box. Statement of result to be made by deputy returning officer.

(2) The statement shall forthwith be signed by the deputy returning officer and poll clerk and such of the candidates or their agents as may be present, who desire to sign it. Signatures to statement.

(3) The deputy returning officer shall then deliver to each of the candidates, or to their agents, or, in the absence of the candidates and agents, to the voters present representing the candidates, a certificate (Form 34) of the number of ballots cast for each candidate and of the number of rejected ballot papers. R.S.O. 1937, c. 8, s. 117. Certificate of result of poll.

118. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the oath (Form 35). R.S.O. 1937, c. 8, s. 118. Oath of poll clerk.

119. The poll book, the polling list, the envelope containing the ballot papers, and all other documents which served at the election shall then be placed in the large envelope supplied for the purpose, which shall then be sealed and placed in the ballot box. R.S.O. 1937, c. 8, s. 119. Poll book, envelopes, etc., to be placed in large envelope in ballot box.

120.—(1) The deputy returning officer shall then immediately lock and seal the box, and forthwith deliver it personally to the returning officer, and if he is unable to do so owing to illness or other imperative cause, he shall deliver it to the poll clerk, or where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it to the returning officer, and shall thereon, or on a ticket attached thereto, write the name of the person to whom the box has been delivered, and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver the ballot box to the returning officer and shall take before him the oath (Form 36). Ballot box to be delivered to R.O.

(2) In lieu of the proceedings provided by subsection 1 after locking and sealing the ballot box the deputy returning officer may forward it by registered post to the returning officer. Ballot box may be forwarded by registered post.

(3) Forthwith thereafter the deputy returning officer shall take and subscribe the oath (Form 37), and shall personally Oath of D.R.O.

deliver or transmit it by registered post to the returning officer. R.S.O. 1937, c. 8, s. 120.

Duty of
R.O.
on receipt
of boxes.

121. The returning officer upon the receipt by him of any ballot box shall take every precaution for its safe keeping and for preventing any person other than himself and the election clerk from having access to it, and shall immediately on the receipt of each box seal it with his own seal in such a way that it cannot be opened without his seal being broken, and without effacing or covering the seals affixed thereto. R.S.O. 1937, c. 8, s. 121.

Count by
R.O. and
declaration
of result.

122. The returning officer at the place, day and hour appointed by his proclamation, and after having received all the ballot boxes, shall open them, and the large envelope containing the poll books, but not any of the other sealed envelopes except the one containing the statement of the poll, and shall in the presence of the election clerk and of the candidates or their representatives if present, add up the votes given for each candidate from the statements of the poll contained in the ballot boxes, and shall forthwith declare to be elected the candidate having the largest number of votes. R.S.O. 1937, c. 8, s. 122.

Casting
vote.

123. Where, on the addition of votes by the returning officer, an equality of votes is found to exist between any two or more candidates, and an additional vote would entitle any of them to be declared elected, the returning officer shall give the additional or casting vote. R.S.O. 1937, c. 8, s. 123.

PROCEEDINGS IN CASE OF NON-RETURN OF BALLOT BOXES, ETC.

Adjourn-
ment of
proceedings
where
ballot box
not duly
delivered.

124. If the ballot boxes are not all returned on the day fixed for adding up the votes, the returning officer shall adjourn the proceedings to a subsequent day, which shall not be more than a week later than the day originally fixed. R.S.O. 1937, c. 8, s. 124.

Where de-
fault made
by D.R.O. in
returning
documents.

125. If any deputy returning officer has not enclosed in the ballot box the statement of the ballot papers counted by him as required by this Act, or if for any other cause, the returning officer cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, he may adjourn to a future day and hour the adding up of the votes, and so from time to time, such adjournment or adjournments not in the aggregate to exceed two weeks. R.S.O. 1937, c. 8, s. 125.

126. If the ballot boxes or any of them have been destroyed or lost, or, for any other reason, are not forthcoming by the time fixed for adding up the votes, the returning officer shall ascertain the cause and shall procure from each deputy returning officer whose ballot box is missing, or from any other person having them, the statements and certificates of the number of votes given for each candidate or copies of them, the whole to be verified by oath. R.S.O. 1937, c. 8, s. 126.

Disappearance of ballot boxes, duty of R.O.

127. If the statements and certificates, or any of them, or copies of them, cannot be procured, the returning officer shall ascertain by such evidence as he is able to obtain the total number of votes given for each candidate at the several polling places, and may summon any deputy returning officer, poll clerk or other person to appear before him at a time and place to be named by him, with all necessary papers and documents, of which time and place and of the intended proceedings the candidates shall have notice, and the returning officer may examine on oath such deputy returning officer, poll clerk or other person respecting the matter in question. R.S.O. 1937, c. 8, s. 127.

Procedure by R.O. where lists, statements, etc., cannot be found.

128. In case of an adjournment by reason of any deputy returning officer not having placed in the ballot box a statement of the ballot papers counted by him, the returning officer shall, in the meantime, use all reasonable efforts to ascertain the number of votes given for each candidate at the polling place of the deputy returning officer and shall have the powers conferred by section 127. R.S.O. 1937, c. 8, s. 128.

When D.R.O. has neglected to deliver statement of result.

129. The returning officer shall return the candidate having the largest number of votes, and shall mention specially in a report to be sent with the return the circumstances accompanying the disappearance of the ballot boxes, or the want of any statement, and the mode by which he ascertained the number of votes given for each candidate. R.S.O. 1937, c. 8, s. 129.

Special report by R.O.

RECOUNT OR FINAL ADDITION BY COUNTY JUDGE

130.—(1) In this section and in sections 131 to 143 “judge” means the judge of the county or district court and where there are two or more judges the senior judge, or in case of the illness or absence of the senior judge or where the senior judge requests him to act, a junior judge.

Interpretation.

Where
recount
may be had.

(2) If within four days after that on which the returning officer has made addition of the votes for the purpose of declaring any candidate elected, upon the application of a candidate or a voter, it is made to appear by affidavit to the judge of the county court of the county in which the electoral district or any part of it is situate that a deputy returning officer has in counting the votes,

- (a) improperly counted any ballot paper;
- (b) improperly rejected any ballot paper;
- (c) made an incorrect statement of the number of ballots cast for any candidate; or
- (d) that the returning officer has improperly added up the votes,

and if the applicant deposits within that time with the clerk of the county court the sum of \$100 in legal tender as security for the costs in connection with the recount or final addition of the candidate appearing by the addition to be elected, the judge may appoint a time and place to recount or finally add up the votes cast at the election.

What judge
to hold re-
count when
district in
two or more
counties.

(3) Where an electoral district comprises parts of two or more counties the application shall be made to and the recount or final addition shall take place before the judge of the county court of the county having the larger or largest population according to the last Dominion census. R.S.O. 1937, c. 8, s. 130.

Notice of
time and
place of
recount.

131. At least two days notice in writing of the time and place appointed shall be given to the candidates and to the returning officer and the election clerk, and the judge may at the time of the application or afterwards, direct that service of the notice upon the candidates, the returning officer and the election clerk may be substitutional, or be made by mail, or in such other manner as he thinks fit. R.S.O. 1937, c. 8, s. 131.

R.O. to
withhold
return.

132. The returning officer after the receipt of the notice shall delay making his return to the Clerk of the Crown in Chancery until he receives a certificate from the judge of the result of the recount or final addition, and upon receipt of the certificate shall make his return. R.S.O. 1937, c. 8, s. 132.

Presence of
county
court clerk.

133. The judge may require the clerk of the county court to be present at the time and place appointed. R.S.O. 1937, c. 8, s. 133.

134.—(1) The returning officer and his election clerk shall attend at the time and place appointed with the envelope containing the ballot papers, or the original statements of the poll, as the case may be. Summoning officers to be present with documents.

(2) The ballot papers and original statements shall continue in the custody of the returning officer and he shall be responsible for them subject to any direction which the judge may give in respect thereto. Production and custody of ballot papers on a recount. R.S.O. 1937, c. 8, s. 134.

135.—(1) The returning officer and the election clerk shall be present at the recount or final addition, and each candidate shall be entitled to be represented by not more than three agents, and may himself be present. Who to be present at recount.

(2) Where a candidate is not represented, any three voters who declare their desire to attend on his behalf, shall be entitled to attend. If candidate not represented.

(3) Except with the sanction of the judge, no other person shall be present. Authority of judge. R.S.O. 1937, c. 8, s. 135.

136. At the time and place appointed, and in the presence of such of the persons mentioned in section 135 as are present, the judge shall make such final addition from the statements contained in the ballot boxes returned by the deputy returning officers, or recount all the votes or ballot papers returned by the several deputy returning officers, as the case may be, and shall, in the latter case, open all the sealed envelopes containing, Procedure by judge.

- (a) the used ballot papers which have been counted;
- (b) the rejected ballot papers;
- (c) the cancelled ballot papers;
- (d) the declined ballot papers;
- (e) the unused ballot papers.

R.S.O. 1937, c. 8, s. 136.

137.—(1) The judge shall, as far as practicable, proceed continuously, allowing only time for refreshment, and excluding, except so far as he and the persons present agree, the hours between six o'clock in the afternoon and nine in the succeeding forenoon. Recount to be proceeded with continuously.

(2) During such excluded time and time for refreshment the judge shall place the ballot papers and other documents relating to the election close under his own seal and the seals Care of documents during proceedings.

of such of the other persons present as desire to affix their seals, and shall otherwise take all necessary precautions for the security of such papers and documents. R.S.O. 1937, c. 8, s. 137.

Rules to govern judge in proceedings.

138. The judge shall, in the case of a recount, proceed according to the rules of the counting of the ballot papers at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll (Form 33). R.S.O. 1937, c. 8, s. 138.

Sealing up ballots at close of recount.

139.—(1) Upon the completion of the recount the judge shall seal up all the ballot papers in their separate envelopes, and upon the completion of a final addition he shall seal up the original statements in their respective envelopes.

Distinguishing disputed ballots.

(2) Where either party requests him to do so the judge shall number on the back the disputed ballots and enclose them in a separate envelope. R.S.O. 1937, c. 8, s. 139.

Reviewing decision of R.O. when ballot box documents missing.

140.—(1) The judge shall, if necessary, or required, review the decision of the returning officer with respect to the number of votes given for a candidate at any polling place, where the ballot box used was not forthcoming when he made his decision, or when the proper statements or papers were not found therein.

Powers of judge.

(2) For the purpose of arriving at the facts the judge shall have all the powers of the returning officer with regard to the attendance and examination of witnesses or he may act upon the evidence taken by the returning officer. R.S.O. 1937, c. 8, s. 140.

When judge to send in certificate.

141.—(1) The judge shall delay sending his certificate to the returning officer for two days after the completion of the recount or final addition in order to allow of an appeal as hereinafter provided.

When declaration of result to be given.

(2) If no notice of appeal is given to the judge within two days after the completion of the recount or final addition, the judge shall certify the result to the returning officer forthwith, who shall then forthwith declare to be elected the candidate having the largest number of votes.

Casting vote.

(3) In case of an equality of votes, the returning officer shall give the casting vote. R.S.O. 1937, c. 8, s. 141.

Costs.

142.—(1) The costs of the recount or final addition shall be in the discretion of the judge who may order by whom, to whom, and in what manner they shall be paid.

(2) The judge shall tax the costs, and shall, as nearly as ^{Taxing and allowing costs.} may be, follow the tariff of costs with respect to proceedings in the county court. R.S.O. 1937, c. 8, s. 142.

143. Where costs are directed to be paid by the applicant, ^{Deposits, disposal of.} the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and if the deposit is insufficient, execution may issue out of the county court upon the judge's order for the balance. R.S.O. 1937, c. 8, s. 143.

Appeal from Decision on Recount or Final Addition

144.—(1) If a party desires to appeal from the decision ^{Appeal from decision of judge.} of the judge he may do so on giving notice in writing to the opposite party and to the judge of his intention to appeal within two days after the completion of the recount or final addition, and he may by the notice limit the appeal to specified ballots.

(2) The notice may be served upon the opposite party ^{Service of notice of appeal.} personally or upon the solicitor who acted for him upon the recount or final addition personally or at his office, or as a judge of the Court of Appeal may direct.

(3) Where the appeal is limited, the judge of the county court shall seal up the ballots which are the subject of appeal in a separate packet and shall forward them together with the notice and a certificate showing his findings as to the ballots in dispute by registered post to the Registrar of the Supreme Court, but if the appeal is not limited the judge shall forward all the ballot papers and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer.

(4) The judge shall upon request allow each party to ^{Allowing copy of certificate of judge.} make a copy of the certificate of his findings before it is forwarded to the Registrar of the Supreme Court.

(5) On receipt of the ballot papers and notice the Registrar shall forthwith obtain an appointment from a judge of the Court of Appeal for hearing the appeal and shall notify the parties or their solicitors of the time so appointed. ^{Appointment for hearing of appeal.}

(6) The time appointed for hearing the appeal shall not ^{When appeal may be heard.} be more than four days from the date of the appointment.

(7) At the time appointed the judge of the Court of Appeal shall recount the ballot papers or such of them as are the ^{Procedure on hearing of appeal, certificate of result.}

subject of appeal, or review the final addition as the case may be, and shall forthwith certify his decision to the judge of the county court, whose duty it shall be to conform to the decision, and to certify the result without delay to the returning officer.

Costs of
appeal.

(8) The judge of the Court of Appeal may direct by and to whom the costs of the appeal shall be paid. R.S.O. 1937, c. 8, s. 144.

ELECTION RETURN

When return
to be made.

145.—(1) The returning officer shall immediately after the sixth day after the final addition by him of the number of votes given for each candidate, unless before that time he receives notice that he is required to attend before a judge for the purpose of a recount or final addition of the votes given at the election, and where there has been a recount or final addition, immediately after the receipt of the certificate of the result, transmit his return (Form 38) to the Clerk of the Crown in Chancery that the candidate having the largest number of votes has been duly elected, and shall forward to each of the candidates a duplicate or copy thereof.

Report
by R.O.

(2) The returning officer shall accompany his return to the Clerk of the Crown in Chancery with a report of his proceedings, in which he shall make any observations he thinks proper as to the state of the ballot boxes or ballot papers as received by him. R.S.O. 1937, c. 8, s. 145.

R.O. to
transmit to
Clerk of the
Crown in
Chancery
the ballot
papers, etc.

146.—(1) The returning officer shall at the same time transmit to the Clerk of the Crown in Chancery, enclosed in a box or other covering, securely locked, sealed with the seal of the returning officer, the writ, the list mentioned in subsection 5 of section 85, all the envelopes containing ballot papers in his possession, declarations of inability to read or to mark, poll books and all other documents sent to him by the deputy returning officers.

Endorsement
thereon.

(2) The returning officer shall endorse on the package a description of its contents, and the date of the election to which they relate, and also the name of the electoral district for which the election was held, and shall affix to the outside of the package a label showing distinctly the electoral district to which the contents relate and the date of the election.

How to
be sent.

(3) The packages shall be sent by express or by registered post.

Oath of
R.O. after
transmitting
return.

(4) An affidavit (Form 39) shall be made by the returning officer forthwith after transmitting his return, and shall be forthwith transmitted by him to the Clerk of the Crown in Chancery by registered post.

(5) The returning officer shall at the same time or within 10 days thereafter transmit to the Clerk of the Crown in Chancery in a box or other covering, securely locked, and sealed with the seal of the returning officer, all the packages of ballot papers not distributed by him to the deputy returning officers, all ballot paper returned to him by the printer, all documents, papers, stationery and supplies in his possession, all receipts for paper given to him for ballot paper, and a record of all ballot paper supplied to him by the Clerk of the Crown in Chancery and a complete record of its disposal.

Return of
unused
material.

(6) The returning officer shall paste upon the box mentioned in subsection 5, a label with the words "Unused Election Material" and also the name of the electoral district and the date of the election written or printed thereon. R.S.O. 1937, c. 8, s. 146.

Endorse-
ment on
package.

147.—(1) If a returning officer wilfully delays, neglects or refuses,

Application
to compel
returning
officer to
add up votes,
make return,
etc.

- (a) to add up the votes;
- (b) to declare to be elected the candidate having the largest number of votes;
- (c) to give his casting vote where he is by law required to do so; or
- (d) to make the return, as required by this Act, of the candidate having the largest number of votes,

the person aggrieved or any voter who voted at the election may apply to a judge of the Supreme Court for a mandamus commanding the returning officer to perform the duty which he is shown to have omitted.

(2) The notice shall be served upon the returning officer and upon any person who was a candidate at the election.

Notice of
application.

(3) In other respects *The Judicature Act* and the rules made thereunder shall apply to such application.

Application
of Rev. Stat.,
c. 190 and
rules.

(4) Nothing in this section shall affect or impair any other right or remedy of the person aggrieved. R.S.O. 1937, c. 8, s. 147.

Other
rights and
remedies.

148. The Clerk of the Crown in Chancery shall, on receiving the return of a member elected to the Assembly, give in the next ordinary issue of *The Ontario Gazette*, notice of the receipt of the return, the date of such receipt, and the name of the candidate elected. R.S.O. 1937, c. 8, s. 148.

Notice of
return in
Ontario Gazette.

CUSTODY OF ELECTION PAPERS

How long to
be retained
and when to
be destroyed.

149.—(1) The Clerk of the Crown in Chancery shall, subject to this Act, retain in his possession the documents transmitted to him by a returning officer under section 146 for at least one year, and if the election is contested, then for one year after the termination of the contestation.

How to be
kept by
Clerk of the
Crown in
Chancery.

(2) The Clerk of the Crown in Chancery shall keep all documents relating to a general election in a room or vault separate from that in which documents relating to by-elections are kept.

Marking
boxes when
not to be
destroyed.

(3) If notice of the presentation of a petition is received by the Clerk of the Crown in Chancery or, if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words "NOT TO BE DESTROYED". R.S.O. 1937, c. 8, s. 149.

INSPECTION OF DOCUMENTS, BALLOT PAPERS, ETC.

Inspection
of other
documents.

150. All documents forwarded by a returning officer in pursuance of this Act to the Clerk of the Crown in Chancery, other than ballot papers, shall be open to public inspection at such time and under such regulations as may be prescribed by the Clerk of the Crown in Chancery with the approval of the Speaker of the Assembly, and the Clerk of the Crown in Chancery shall supply copies of or extracts from the documents to any person demanding the same, on payment at the rate of 10 cents for each 100 words, and in computing the number of words a figure shall be counted as a word. R.S.O. 1937, c. 8, s. 150.

Inspection
to be under
order of
judge.

151.—(1) No person shall be allowed to inspect any ballot paper in the custody of the Clerk of the Crown in Chancery except under an order of a judge of the Supreme Court.

When order
to be
granted.

(2) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of the ballot paper is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return.

Conditions
of order.

(3) The order may be made subject to such conditions as the judge may think proper.

(4) Subject to the order, the inspection shall take place ^{Where inspection to take place.} under the immediate supervision of the Registrar of the Supreme Court at his office in Osgoode Hall, and he shall be present during the inspection, and so long as the ballot papers are in the custody of the Registrar and not under inspection, they shall be kept in a secure place under lock and key. R.S.O. 1937, c. 8, s. 151.

152. Where an order is made by a judge of the Supreme Court for the production by the Clerk of the Crown in Chancery of any document in his possession relating to an election, the production of it by the Clerk or his agent, in such manner ^{Evidence as to documents, ballot papers, etc., in certain cases.} as may be directed by the order, shall be evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballot papers so produced, shall be evidence that the contents are what they are stated to be by the endorsement. R.S.O. 1937, c. 8, s. 152.

153.—(1) Notwithstanding anything in sections 150, 151 ^{Inspection of documents under order of Privileges and Elections Committee.} and 152 all documents, including used and unused ballot papers, relating to an election, in the custody of the Clerk of the Crown in Chancery or of any other person, may be opened, inspected and examined under such conditions and regulations as may be made by the Committee on Privileges and Elections of the Assembly for the purpose of inquiring into any matter referred to the Committee by order of the Assembly, and upon any such proceeding before the Committee any such document may be filed as an exhibit and any person summoned to attend and give evidence before the Committee upon such inquiry may be examined or cross-examined in relation thereto.

(2) Upon such inquiry no person shall be excusable as a witness on any ground of privilege or upon the ground that ^{Compellability of witnesses.} his answer may expose him to criminal proceedings or to any penalties which may be imposed under any statute of Ontario. R.S.O. 1937, c. 8, s. 153.

PRESERVATION OF THE PEACE

154. A returning officer and a deputy returning officer ^{Powers of R.O's. and D.R.O's.} from the time he takes the oath of office until the day after the closing of the election shall be a conservator of the peace, and shall be invested with all the powers pertaining to a justice of the peace. R.S.O. 1937, c. 8, s. 154.

155. A returning officer and a deputy returning officer ^{Assistance by justices and constables.} may require the assistance of justices of the peace, constables and other persons, to aid him in maintaining peace and good

order at the election and may also swear in as many special constables as he may deem necessary. R.S.O. 1937, c. 8, s. 155.

Special constables.

156. On a requisition in writing made by a candidate or by his agent, or by two or more voters, a returning officer or deputy returning officer shall swear in as many special constables as may be necessary. R.S.O. 1937, c. 8, s. 156.

Arrest and imprisonment on verbal order.

157. A returning officer or deputy returning officer may arrest or by verbal order cause to be arrested and placed in the custody of any constable or other person, any person disturbing the peace and good order at the election, and may cause the person to be imprisoned under an order signed by him until an hour not later than the close of the nomination or of the poll, as the case may be. R.S.O. 1937, c. 8, s. 157.

SECRECY OF PROCEEDINGS

Maintaining secrecy of proceedings.

158.—(1) Every person in attendance at a polling place or at the counting of votes shall maintain and aid in maintaining the secrecy of the voting.

Interference with voters.

(2) No person shall interfere or attempt to interfere with a voter when marking his ballot paper, or attempt to obtain at the polling place information as to the candidate for whom a voter is about to vote or has voted.

Communicating information as to how voter is voting.

(3) No person shall communicate any information obtained at a polling place as to the candidate for whom a voter at the polling place is about to vote or has voted. R.S.O. 1937, c. 8, s. 158.

Inducing voter to display ballot after marking.

159. No person shall, directly or indirectly, induce or attempt to induce a voter to show his ballot paper after he has marked it, so as to make known to any person the name of the candidate for whom he has voted. R.S.O. 1937, c. 8, s. 159.

Communicating information as to number on back of ballot.

160. No person shall communicate at any time to any person any information as to the number on the back of the ballot paper given to any voter at a polling place under section 108, except to a court or judge lawfully requiring him so to do, or attempting to ascertain at the counting of the votes the number on the back of any such ballot paper. R.S.O. 1937, c. 8, s. 160.

Voter not to display marked ballot.

161. Subject to section 100, a voter shall not show his ballot paper, when marked, to any person so as to allow the

name of the candidate for whom he voted to be known.
R.S.O. 1937, c. 8, s. 161.

162. Every returning officer and every officer, clerk, constable, agent and other person authorized to attend at a polling place, or at the counting of the votes, shall, before entering on his duties, take the oath of secrecy (Form 40).
R.S.O. 1937, c. 8, s. 162.

163.—(1) If a returning officer, election clerk, deputy returning officer or poll clerk becomes aware, or has reason to believe or suspect, that any provision of the law as to secrecy has been violated he shall communicate the particulars, with all convenient speed, to the Crown attorney.

(2) The Crown attorney shall, on receiving such information from such officer or from any other person, forthwith inquire into the case and if proper prosecute the offender. R.S.O. 1937, c. 8, s. 163.

164. A person who has voted shall not in any legal proceeding questioning the election or return be compelled to state for whom he voted. R.S.O. 1937, c. 8, s. 164.

CORRUPT PRACTICES, ETC.

165.—(1) Every person who, Bribery;

- (a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at an election;
- (b) directly or indirectly, himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at an election;

to induce
anyone to
procure
return of
candidate;

- (c) directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person in order to induce such person to procure or endeavour to procure the return of any person to serve in the Assembly, or the vote of any voter at an election;

receiving
bribe to
procure
return of
candidate;

- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, or promises or endeavours to procure the return of any person to serve in the Assembly, or the vote of any voter at an election;

advancing
money to
be spent in
corrupt
practices;

- (e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part thereof shall be expended in corrupt practices at an election, or knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election;

applying
for money
or employ-
ment in
considera-
tion of
voting;

- (f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for his having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for his having illegally assisted or agreed to assist any candidate at an election, applies to such candidate or to his agent for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment;

receiving
money,
office, etc.,
for having
voted;

- (g) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election;

receiving
money
corruptly
after
election;

- (h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election;

- (i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person; or giving or promising office to induce candidate to stand or withdraw;
- (j) in order to induce a person to withdraw from being a candidate at an election directly or indirectly gives or lends, or offers or promises or agrees to give or lend, any money or valuable consideration to such person, or to any other person, bribing candidate to retire.

shall be guilty of bribery, and shall incur a penalty of \$200 and shall also on conviction be imprisoned for a term of six months.

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate or any agent in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act. Saving as to personal expenses of candidates.

(3) The distribution by a candidate or his agent of political pamphlets or other political literature, or the sending or causing to be sent to voters by a candidate or his agent of newspapers containing political articles, reports of political meetings or other matters of public interest during such election or for a reasonable time prior thereto shall not be deemed corrupt or illegal acts or a contravention of this Act. R.S.O. 1937, c. 8, s. 165. Saving as to distribution of political literature.

166.—(1) A candidate shall not nor shall any other person provide or furnish meat, drink, refreshment or provision at the expense of the candidate or other person at a meeting of voters assembled for the purpose of promoting the election, before or during the election, or pay or promise or engage to pay therefor; but nothing in this section shall extend to any meat, drink, refreshment or provision furnished to any such meeting of voters by or at the expense of any person at his usual place of residence, where the residence is a private house. Furnishing, meat, drink, etc., forbidden except at residence of the person furnishing.

(2) Every person offending against the provisions of this section shall be guilty of a corrupt practice and shall incur a penalty of \$100. R.S.O. 1937, c. 8, s. 166. Penalty

Treating.

167.—(1) Every candidate who corruptly, himself or by or with any person, or by any other way or means on his behalf, at any time, either before or during an election, directly or indirectly gives or provides, or causes to be given or provided, or is accessory to the giving or providing, or pays wholly or in part any expenses incurred for any meat, drink, refreshment or provision to or for any person, in order to be elected or for being elected, or for the purpose of corruptly influencing such person or any other person to vote or refrain from voting at an election, shall be guilty of a corrupt practice and shall incur a penalty of \$200 in addition to any other penalty to which he may be liable therefor.

Giving refreshments *prima facie* evidence of a corrupt practice.

(2) The giving of meat, drink, refreshment or provision to voters extensively or generally, by a candidate or by his agent, or the taking part therein by either of them, or giving the same wholly or partly at the expense of a candidate or his agent, shall *prima facie* be a corrupt practice within the meaning of this section.

Habit of treating not sufficient answer.

(3) It shall not be a sufficient answer to a charge of a corrupt practice under this section that the person charged had been in the habit of treating. R.S.O. 1937, c. 8, s. 167.

Candidate betting.

168.—(1) Every candidate who, before or during the election makes a bet or wager, or takes a share or interest in, or in any manner becomes a party to, a bet or wager, upon the result of the election in the electoral district or in any part thereof or on any event or contingency relating to the election, shall be guilty of a corrupt practice.

Providing money for betting.

(2) Every candidate or other person who provides money to be used by another in betting or wagering upon the result of the election in the electoral district or in any part thereof, or on any event or contingency relating to the election, shall be guilty of a corrupt practice.

Other persons.

(3) Every person who for the purpose of influencing an election makes a bet or wager on the result thereof in the electoral district or in any part thereof, or on any event or contingency relating thereto, shall be guilty of a corrupt practice. R.S.O. 1937, c. 8, s. 168.

Hiring conveyances to carry voters to poll.

169.—(1) Every candidate who himself or by any other person on his behalf and every other person who,

(a) hires or promises to pay or pays for a conveyance to carry a voter to or near or from or on the way to or from a polling place; or

- (b) pays the travelling or other expenses of a voter in going to or returning from a polling place,

and every person who for a valuable consideration provides or furnishes a conveyance knowing that it is to be used to carry a voter other than the hirer, to or near or from or on the way to or from a polling place shall be guilty of a corrupt practice and shall incur a penalty of \$100, and, if a voter, shall be disqualified from voting at the election; but this subsection shall not apply to the carrying of voters to the poll in the conveyance mentioned in clause *e* of subsection 2 of section 200.

(2) Every person who provides or furnishes transportation free of charge or at a diminished rate to a voter to or near or from or on the way to or from a polling place, and whether passes or tickets or the like are or are not supplied, shall be guilty of a corrupt practice and shall incur a penalty of \$100, and, if a voter, shall be disqualified from voting at the election. Furnishing transportation to voters.

(3) For the purposes of this section, "conveyance" includes an automobile, a horse, team, carriage, cab, vehicle, boat or vessel. Interpretation.

(4) Save as provided in subsection 1, nothing in this Act shall render it unlawful for any person to provide his own private vehicles for the purpose of taking voters to and from the poll free of charge. R.S.O. 1937, c. 8, s. 169. Use of private vehicles.

170. The giving or causing to be given to a voter on the nomination day or on polling day on account of his being about to vote or having voted, any meat, drink, refreshment or provision, or any money, ticket or order to enable him to procure the same, shall be a corrupt practice, and the person so offending shall incur a penalty of \$10. R.S.O. 1937, c. 8, s. 170. Providing refreshments on nomination day or polling day.

171.—(1) Every person who, directly or indirectly, himself or by any other person on his behalf, uses or threatens to use force, violence or restraint, or inflicts or threatens to inflict injury, damage, harm or loss, or in any manner practises intimidation upon or against a voter in order to induce or compel him to vote or refrain from voting, or on account of his having voted or refrained from voting, or who, by abduction, duress, or false or fraudulent pretence, device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of a voter, or thereby compels, induces or prevails upon a voter to vote or refrain from voting, shall be guilty of a corrupt practice and shall incur a Undue influence.

penalty of \$200, and shall also upon conviction be imprisoned for one year.

Pretence
that ballot
is not secret.

(2) It shall be a false pretence within the meaning of this section to represent to a voter, directly or indirectly, that the ballot to be used, or the mode of voting at an election, is not secret. R.S.O. 1937, c. 8, s. 171.

Personation.

172.—(1) Every person who at an election applies for a ballot paper in the name of some other person whether that name be that of a person living or dead, or of a fictitious person, or who having voted applies at the same election for a ballot paper in his own name or who votes more than once at the same election, shall be guilty of the offence of personation.

Penalty.

(2) Every person who commits or who directly or indirectly aids or abets, counsels or procures the commission of the offence of personation shall be guilty of a corrupt practice and shall incur a penalty of \$400, and shall also on conviction be imprisoned for one year. R.S.O. 1937, c. 8, s. 172.

Procuring
appointment
as D.R.O. or
poll clerk
by fraud.

173. Every person who procures an appointment as deputy returning officer or poll clerk by false pretence, deceit or other improper means, or who acts as deputy returning officer without lawful authority shall be guilty of a corrupt practice and shall incur a penalty of \$400, and shall also on conviction be imprisoned for one year. R.S.O. 1937, c. 8, s. 173.

Appointing
persons as
election
officers who
have been
guilty of
corrupt
practices.

174. Every person who knowingly appoints an election clerk, deputy returning officer or poll clerk who has at any time been found guilty by a competent tribunal of a corrupt practice or reported by an election court for a corrupt practice, shall be guilty of a corrupt practice and shall incur a penalty of \$400. R.S.O. 1937, c. 8, s. 174.

Voting by
persons not
entitled to
vote to be
a corrupt
practice.

175. Every person who votes knowing that he has no right to vote, and every person who induces or procures any other person to vote, knowing that the other person has no right to vote, shall be guilty of a corrupt practice and shall incur a penalty of \$200. R.S.O. 1937, c. 8, s. 175.

Publishing
false state-
ment of
withdrawal
of candidate.

176. Every person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at the election for the purpose of promoting or securing the election of another candidate, shall be guilty of a corrupt practice and shall incur a penalty of \$100, but the election of a candidate shall not be avoided by reason of a contravention of this section unless committed by him or by his agent. R.S.O. 1937, c. 8, s. 176.

177. If an election court determines and reports that a corrupt practice has been committed by a candidate or by his agent, whether with or without the actual knowledge and consent of the candidate, the election of the candidate shall, except in the case mentioned in section 178, be void. R.S.O. 1937, c. 8, s. 177.

Corrupt practices by candidate or his agent to avoid election.

178. If the election court determines that an agent of the candidate was guilty of a corrupt practice that would otherwise render the election void, and further finds that,

When court finds candidate not personally guilty, then result not affected.

- (a) no corrupt practice was committed at the election by the candidate personally, and that the corrupt practice of the agent was committed contrary to the order and without the sanction or connivance of the candidate;
- (b) the candidate took all reasonable means for preventing the commission of corrupt practices at the election;
- (c) the corrupt practice was of a trivial, unimportant and limited character; and that
- (d) in all other respects, so far as disclosed by the evidence, the election was free from any corrupt practice on the part of the candidate and of his agent,

then the election of the candidate shall not, by reason of the corrupt practice, be void. R.S.O. 1937, c. 8, s. 178.

179. No candidate or other person shall be disqualified or subject to any disability or penalty for a corrupt practice, except upon the judgment of an election court. R.S.O. 1937, c. 8, s. 179.

When disqualification incurred.

180.—(1) Subject to subsection 2, where an election court determines and reports that a corrupt practice has been committed by or with the actual knowledge and consent of a candidate, then in addition to his election, if he has been elected, being void, the candidate, during the eight years next after the date of his being so found guilty, shall be incapable of being elected to and of sitting in the Assembly or any municipal council and of being entered on any voters' list or registered as a voter and of voting at an election, and of holding any office at the nomination of the Crown or of the Lieutenant-Governor or any municipal office.

Candidate guilty of corrupt practice disqualified for eight years.

Saving
where cor-
rupt practice
committed
in excusable
ignorance.

(2) If the election court or one of the judges thereof finds that an act constituting in law a corrupt practice was committed by a candidate, or with his actual knowledge and consent, but without any corrupt intent, and in an ignorance which was involuntary and excusable, and that the evidence showed that the candidate honestly desired, and in good faith endeavoured as far as he could, to have the election conducted according to law, the candidate shall not be subject to the penalties and disabilities which he would otherwise incur under subsection 1. R.S.O. 1937, c. 8, s. 180.

Disqualifi-
cation of
persons
other than
candidates.

181.—(1) Every person other than a candidate found guilty of a corrupt practice in a proceeding in which, after notice of the charge, he has had an opportunity of being heard, or who upon his own evidence given on the trial of a petition has been found to have been guilty of a corrupt practice and has been reported therefor, unless the finding and report have been reversed or set aside on appeal under *The Controverted Elections Act* shall, during the eight years next after the date of his being found guilty, be subject to the penalties and disabilities mentioned in section 180.

Rev. Stat.,
c. 67.

Exemptions.

(2) No person shall be subject to the penalties and disabilities referred to in subsection 1 by reason of,

(a) a mere technical breach of law; or

(b) an act not being an intentional violation of law.

R.S.O. 1937, c. 8, s. 181.

Appeal.

182. Where the judges who constitute the election court disagree as to a corrupt practice having been committed by a candidate or his agent there may be an appeal as provided by *The Controverted Elections Act*, and if the Supreme Court determines that a corrupt practice was committed, then unless the court is of opinion that the case falls within section 178, the election shall be void, but the candidate shall not be disqualified. R.S.O. 1937, c. 8, s. 182.

Rev. Stat.,
c. 67.

Where
second
election
held as
result of
protest.

183. If an election is set aside and a second election had, the second election shall be deemed to be a new election and shall not be avoided by reason of corrupt practices committed at the former election other than the personal acts of the candidate or of his agent done with his actual knowledge and consent, but the new election shall not be avoided for corrupt practices by the candidate at the former election or affecting the same which were not set up and proved at the trial and so adjudged by the election court as by law to involve the penalties and disabilities mentioned in section 180. R.S.O. 1937, c. 8, s. 183.

184. If on the trial of an election petition a candidate or his agent is proved to have committed a corrupt practice with respect to a voter, there shall be struck off from the number of votes given for the candidate one vote for each voter in respect to whom the corrupt practice is proved to have been committed. R.S.O. 1937, c. 8, s. 184.

Votes to be struck off on scrutiny when corrupt practice is proved.

185. If on the trial of an election petition, a candidate is proved to have personally engaged any person as a canvasser or agent, knowing that he has, within the eight years previous to the engagement, been found guilty by a competent tribunal of or reported by an election court for a corrupt practice, the election of the candidate shall be void. R.S.O. 1937, c. 8, s. 185.

Election of candidate to be void for employing agent previously found guilty of corrupt practice.

186. If, at any time after a person has become disqualified, the witnesses or any of them on whose testimony he has become disqualified are convicted of perjury in respect of such testimony, the Supreme Court, upon the motion of the person disqualified and upon being satisfied that the disqualification was procured by reason of perjury, may order that the disqualification shall thereafter cease and determine. R.S.O. 1937, c. 8, s. 186.

Removal of disqualification on proof that disqualification was procured by perjury.

187. Every executory contract, promise or undertaking, in any way referring to, arising out of, or depending upon on election, even for the payment of lawful expenses, or the doing of a lawful act, shall be void. R.S.O. 1937, c. 8, s. 187.

Executory contracts arising out of elections to be void.

188. No pecuniary penalty or forfeiture shall be recoverable for a corrupt practice if it appears that the person charged and another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted the other person or persons or any of them for the corrupt practice; but this provision shall not apply if the court or judge before whom the person claiming the benefit thereof is charged certifies that it clearly appears that the person so charged took the first step towards the commission of the offence, and that he was in fact the principal offender. R.S.O. 1937, c. 8, s. 188.

No statutory penalty for corrupt practice where the party charged has first prosecuted a party jointly liable.

189. A returning officer, deputy returning officer or other person whose duty it is to deliver poll books or who has the custody of a certified list of voters or of a polling list or poll book, who wilfully makes any alteration or insertion in or omission from or in any way wilfully falsifies such certified list, polling list or poll book shall be guilty of a corrupt prac-

Returning officers, etc., wilfully falsifying or altering list of voters.

tice and shall incur a penalty of \$2,000, and shall also on conviction be imprisoned for one year. R.S.O. 1937, c. 8, s. 189.

Offences
relating to
ballot
papers.

190. Every person who,

- (a) fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer thereon; or
- (b) without authority, supplies a ballot paper to any person; or
- (c) fraudulently places in a ballot box a paper other than the ballot paper which he is authorized by law to place therein; or
- (d) fraudulently delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot paper given to him by the deputy returning officer; or
- (e) fraudulently takes a ballot paper out of the polling place; or
- (f) without authority, destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers or a ballot paper or ballot in use or used for the purposes of an election; or
- (g) being a deputy returning officer, fraudulently puts his initials on the back of any paper purporting to be or capable of being used as a ballot paper at an election; or
- (h) with fraudulent intent, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or
- (i) being authorized by the returning officer to print the ballot papers for an election, with fraudulent intent prints more ballot papers than he is authorized to print; or
- (j) attempts to commit any offence mentioned in this section,

shall be guilty of a corrupt practice and in the case of a returning officer, deputy returning officer or other officer

engaged in the election, shall on conviction be liable to imprisonment for three years, and, in the case of any other person, shall on conviction be liable to imprisonment for one year. R.S.O. 1937, c. 8, s. 190.

191.—(1) Every person who wilfully and maliciously destroys, injures or obliterates, or causes to be destroyed, injured or obliterated, a writ of election, or a return to a writ of election, or a poll book, voters' list, list of voters, polling list, certificate or affidavit, or other document or paper made, prepared or drawn according to or for the purpose of meeting the requirements of this Act or any of them, shall be guilty of a corrupt practice and shall incur a penalty of \$2,000, and shall also on conviction be imprisoned for one year.

Persons unlawfully destroying, etc., documents relating to elections, etc.

(2) Every person who aids, abets, counsels or procures the commission of a violation of subsection 1 shall be guilty of a corrupt practice and shall incur a penalty of \$2,000, and shall also on conviction be imprisoned for one year. R.S.O. 1937, c. 8, s. 191.

Abettors punishable.

192.—(1) Every deputy returning officer who wilfully omits to put his initials on the back of a ballot paper in use for the purpose of an election, shall incur a penalty of \$20 in respect of each such ballot paper.

Penalty for D.R.O. omitting to initial ballots.

(2) Every deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by sections 113 to 120 shall, for each refusal or neglect, incur a penalty of \$200. R.S.O. 1937, c. 8, s. 192.

D.R.O. or poll clerk neglecting duties.

193. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise makes up a false statement of the poll shall be guilty of a corrupt practice and shall incur a penalty of \$200. R.S.O. 1937, c. 8, s. 193.

Wilful misconduct in counting ballots, etc.

194. Every person who acts in contravention of sections 158, 159, 160 or 161 shall be liable on conviction to imprisonment for a term of not more than six months. R.S.O. 1937, c. 8, s. 194.

Penalty for violating secrecy.

195. Every officer engaged in the election who is guilty of a wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved thereby the sum of \$400. R.S.O. 1937, c. 8, s. 195.

Penalty to persons aggrieved.

How
penalties
recoverable.
Rev. Stat.,
c. 67.

196. Subject to *The Controverted Elections Act*, and except as in this Act otherwise provided,

- (a) all pecuniary penalties imposed by this Act for offences not declared to be corrupt practices, and for offences not punishable by imprisonment alone, or in addition to a pecuniary penalty or fine, shall be recoverable by anyone who sues for the same in any court of competent jurisdiction, and the court shall order that in default of payment of the amount which the offender is condemned to pay, within the period fixed by the court, he shall be imprisoned for a term in the discretion of the court not exceeding one year unless the penalty and costs are sooner paid;
- (b) it shall be sufficient for the plaintiff in any such action to allege that the defendant is indebted to him in the sum claimed, and the particular offence for which the action is brought, and that the defendant had acted contrary to this Act;
- (c) the action shall be commenced within four months next after the act committed, or the omission complained of, and not afterwards, and shall be tried by a judge without a jury. R.S.O. 1937, c. 8, s. 196; 1942, c. 13, s. 6.

Prosecutions
for corrupt
practices
punishable
by im-
prisonment.

Rev. Stat.,
c. 67.

197. Prosecutions for penalties and punishments imposed by this Act for or in respect of corrupt practices and for offences for which imprisonment alone or in addition to a pecuniary penalty or fine is imposed shall be had and taken before an election court in the manner provided by *The Controverted Elections Act*. R.S.O. 1937, c. 8, s. 197.

Writ, etc.,
need not be
produced
at trial.

198. In any proceeding under sections 196 and 197, it shall not be necessary on the trial to produce the writ of election or the return thereto, or the authority of the returning officer founded upon the writ of election, but general evidence shall be sufficient. R.S.O. 1937, c. 8, s. 198.

ELECTION EXPENSES, FEES, ETC.

Appoint-
ment of
official
agent.

199.—(1) Every candidate shall appoint an official agent whose name and address shall be declared in writing to the returning officer, on or before the nomination day.

On death or
incapacity
of an agent,
appointment
of another.

(2) In the event of the death or incapacity of an official agent the candidate shall forthwith appoint another official agent in his place, and give notice to the returning officer of

the name and address of the person appointed, which shall be forthwith published by the returning officer at the expense of the candidate in the manner provided by section 61. R.S.O. 1937, c. 8, s. 199.

200.—(1) No contribution, payment, loan, gift, advance or deposit of money or its equivalent in excess of \$50 shall be received by or on behalf of a candidate and no payment, except with respect to the personal expenses of a candidate, and no advance, loan or deposit shall be made by or on behalf of a candidate before, during or after the election, on account of the election, otherwise than through his official agent. Payments not to be made except through official agent.

(2) The expression “personal expenses” when used in this section includes the following expenses, and payment therefor may lawfully be made by the candidate personally: “personal expenses” of candidate, what to include.

- (a) reasonable and *bona fide* rent or hire of halls or other places used by the candidate personally in which to address public meetings of voters, and the expenses incurred in heating, lighting and cleaning the same;
- (b) reasonable, ordinary and necessary travelling and living expenses of the candidate;
- (c) reasonable, ordinary and necessary travelling and living expenses of one speaker for each meeting, who accompanies the candidate and travels with him for the purpose of speaking at a public meeting to be addressed by the candidate;
- (d) reasonable and ordinary charges for the hire and keep of horses and hire of conveyances for the use of the candidate in travelling to and from public meetings and in canvassing in the electoral district, and reasonable and ordinary charges for the services and maintenance of a driver;
- (e) reasonable and ordinary charges for use by the candidate personally of not more than one conveyance, and the services of a driver, on the polling day.

(3) The onus of showing that the personal expenses paid by the candidate were fair, reasonable and proper and not in excess of what is ordinarily paid for similar services and accommodation, shall be upon the candidate. Burden of proof.

Receipt of
ordinary and
reasonable
charges,
when not to
disqualify
voter.

(4) The contracting for or the receipt of the ordinary and reasonable charges,

(a) by the owner or possessor of a hall or room in which to hold *bona fide* public meetings for the purposes of the election; or

(b) by a printer for printing voters' lists, election addresses or advertisements or notices of election meetings; or

(c) by a regularly established livery-keeper for the hire of horses and vehicles used in connection with and for the proper purposes of the election, and not for carrying voters otherwise than by the candidate as provided by clause *e* of subsection 2,

shall be lawful and shall not disqualify him from voting. R.S.O. 1937, c. 8, s. 200.

Claims on
candidates.

201.—(1) Every person who has any claim against a candidate for or in respect to an election, shall send it in within one month from the day of the declaration of the result of the election to the official agent of the candidate, otherwise he shall be barred of his right to recover it.

Case of
death of
person
making
claim.

(2) In case of the death within such month of the person having the claim, his legal representative shall send it in within one month after probate or administration has been obtained, otherwise the right to recover it shall be barred.

Case of
death of
agent.

(3) In case of the death of the official agent or of his incapacity to act and no other agent having been appointed, the claim may be sent in or delivered to the candidate.

Agent not
to pay
without
authority of
candidate.

(4) No such claim shall be paid without the authority of the candidate, and the approval of the official agent. R.S.O. 1937, c. 8, s. 201.

Payment of
accounts.

202.—(1) Notwithstanding anything in section 201, any claim which would have been payable if sent in within one month of the day of the declaration may be paid by the candidate through his official agent after that time if the claim is approved by a judge of the Supreme Court, or by the judge of the county court of a county in which the electoral district or some part of it is situate.

Advertising
claims.

(2) All claims allowed by a judge shall within one week thereafter be advertised by the returning officer at the expense

of the candidate in the same newspapers in which the statement of the other election expenses was published. R.S.O. 1937, c. 8, s. 202.

203.—(1) A detailed statement of all money or its equivalent received as an election contribution, payment, loan, gift, advance or deposit and exceeding in amount or value \$50, and a detailed statement of all election expenses, incurred by or on behalf of a candidate, including payments in respect of his personal expenses, shall within two months after the election, or where, by reason of the death of the creditor, no claim has been sent in within such period of two months, then within one month after the claim has been sent in, be made out and signed by the official agent who has paid the same or by the candidate in case of payments made by him, and delivered, with the bills and vouchers relating thereto, to the returning officer.

Statement of election expenses, etc., to be sent by agent to R.O's.

(2) The returning officer, within 14 days after receiving the statements, shall publish at the expense of the candidate an abstract thereof in a newspaper published or circulating in the electoral district.

Abstract thereof to be published.

(3) Every agent or candidate who makes default in delivering the statements to the returning officer, shall incur a penalty not exceeding \$25 for every day during which he so makes default.

Penalty for default in delivering statement.

(4) Every agent or candidate who wilfully furnishes to the returning officer an untrue statement shall incur a penalty of \$400. R.S.O. 1937, c. 8, s. 203.

Penalty for false statement.

204. The returning officer shall preserve all such statements, bills and vouchers, and shall during the six months next after they have been delivered to him permit any voter to inspect them on payment of a fee of 25 cents. R.S.O. 1937, c. 8, s. 204.

R.O. to preserve bills, etc., and allow inspection.

205.—(1) The fees and expenses to be allowed to the officers and other persons for their services and disbursements under this Act shall be fixed by the Lieutenant-Governor in Council from time to time.

Tariff of fees.

(2) The fees and expenses to be allowed to the returning officers, boards, and other officers and persons for services performed under this Act shall so far as the same are payable by the Province, be payable out of the Consolidated Revenue Fund.

Payment of expenses of Act.

Accountable
warrants.

(3) For the purpose of providing funds for the payment of such fees and expenses, the Lieutenant-Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts
and audit.

(4) The sums paid out under subsection 1 shall be duly accounted for by the production of accounts and vouchers certified as provided by subsection 5, but it shall not be necessary that such accounts or vouchers shall be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the same person, unless the Lieutenant-Governor in Council otherwise directs.

Audit by
Auditor of
Criminal
Justice
Accounts.

(5) All accounts respecting such fees and expenses shall be audited by the Auditor of Criminal Justice Accounts and upon the production of his certificate as to any amount remaining unpaid upon an account, the Treasurer of Ontario shall cause a cheque to be issued for the amount named in the certificate and the provincial Auditor shall countersign the same. R.S.O. 1937, c. 8, s. 205.

FORM 1

(Sections 18, par. 3; 94)

FORM OF OATH TO BE ADMINISTERED TO VOTER IN TERRITORY WITHOUT MUNICIPAL ORGANIZATION

You swear:*

1. That you are the person named or intended to be named in the polling list now shown to you (*or where a voter votes under a certificate given under section 85 of The Election Act, that you are the person named in the certificate now shown to you*).

2. That you are of the full age of 21 years.

3. That you are a British subject.

4. That you are not a citizen or subject of any foreign country.

5. That you have resided in Ontario for the 12 months last past.

6. That you were at the time of the entry of your name upon the polling list now shown to you in good faith a resident of and domiciled in the electoral district for which the list was prepared, and that you have resided in this electoral district continuously since the said date and that you are now actually resident and domiciled therein.

7. That you are not disqualified from voting and are qualified to vote at this election and at this polling place.

8. That you have not voted before at this election at this or any other polling place.

9. That you have not received anything nor has anything been promised to you, directly or indirectly, to induce you to vote at this election, or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. That you have not, directly or indirectly, paid or promised anything to any person to induce him to vote or refrain from voting at this election.

So help you God.

**If the voter is a person who may by law affirm in civil cases, then for "swear" substitute "solemnly affirm".*

R.S.O. 1937, c. 8, Form 1, *amended*.

FORM 2

(Section 19 (1))

AFFIDAVIT OF PERSON APPLYING TO BE ENTERED ON LIST AFTER CHANGE OF RESIDENCE

I, *(insert full Christian name and surname)* of the (city, town, village or township) of *(name of municipality)*, *(occupation)*, make oath and say *(or in the case of a voter entitled to affirm, solemnly affirm)*:

1. That I am of the full age of 21 years *(or I will be of the full age of 21 years on the day of, being the date fixed for holding the poll at this election)*.

2. That I am a British subject.

3. That I have resided within Canada since the day of *(naming a date 12 months prior to the date fixed for holding the poll)*.

4. That I was a resident of and domiciled in *(state municipality from which removal took place)* and was entered on the last revised voters' list for that municipality *(or was entitled to be entered on the last revised voters' list for such municipality)*.

5. That had I remained a resident of such municipality I would have been entitled to be entered on the voters' list and to vote at this election therein.

6. That on the day of *(insert date of removal)*, I removed from the said municipality to this city (town, village or township), and am now resident at *(insert street number, lot and concession of place of residence)*, and that such removal took place in the pursuit of my ordinary profession *(or occupation or calling)* and not for the purpose of enabling me to vote at this election in this municipality.

[*Or, in the case of a person who has moved from one electoral district to another as a member of the family or household, of a person who has so moved in the pursuit of his ordinary occupation or calling or business,*

6. That on the day of *(insert date of removal)*, I moved from the said municipality to this city (town, village or township) with C. D. as a member of his family or household being the wife *(or son or daughter or other relation or dependant, naming the relationship or connection)* of the said C. D., who moved as aforesaid in the pursuit of his ordinary profession *(or occupation or calling)* and not as I verily believe for the purpose of enabling him or the members of his family to vote at this election.]

7. That I am now a resident of and domiciled in this municipality.

8. That I am not disqualified from voting at this election under *The Election Act* or otherwise by law prohibited from voting or from being entered upon the list.

9. That I have not received anything nor has anything been promised to me, directly or indirectly, to induce me to vote at this election or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. And that I have not directly or indirectly paid or promised anything to any person to induce him to vote or refrain from voting at this election.

Sworn (*or affirmed*) before me

at.....

this.... day of....., 19...

C.D.,
Commissioner, etc.

A. B.

(*Signature of applicant*)

R.S.O. 1937, c. 8, Form 3, *amended*.

FORM 3

(*Section 19 (2))*

CERTIFICATE OF REVISING OFFICER OR JUDGE AS TO PERSON REMOVING
FROM ONE ELECTORAL DISTRICT TO ANOTHER

County of To Wit:

I,..... (*name of revising officer or judge*),
do certify that (*insert
name of voter*), having duly filed with me the affidavit required by section
19 of *The Election Act*, as having removed into the electoral district of
..... (*insert name
of district*) within two months from the day fixed for holding the poll at
the election of a member to serve in the Assembly for the said electoral
district and having satisfied me that he is entitled to be entered on the
list of voters in the municipality of
and to vote therein at the poll to be held on the day of
....., I have caused his name to be entered upon
the list of voters for polling subdivision No. in the
of as provided by the said Act, and I believe him to be
duly entitled to vote at the said poll.

Given under my hand and seal this..... day
of....., 19...

Revising Officer

or Judge
(*as the case may be*)

R.S.O. 1937, c. 8, Form 4.

FORM 4

(Sections 25 (2), 74 (1))

DIRECTIONS FOR THE GUIDANCE OF VOTERS

The voter is to vote only for one candidate.

The voter shall go into one of the compartments and, with a black lead pencil there provided, place a cross within the white space containing the name of the candidate for whom he votes, thus X.

The voter shall then fold the ballot paper so that the initials on the back and the number on the counterfoil can be seen without opening it; he shall then return the ballot paper so folded to the deputy returning officer, who shall, in full view of those present including the voter, remove the counterfoil, destroy the same, and place the ballot paper in the ballot box; the voter shall then forthwith leave the polling place.

If a voter inadvertently spoils a ballot paper so that he cannot conveniently use it as he desires, he may return it to the deputy returning officer, who will give him another.

If the voter votes for more than one candidate, or places any mark on the ballot paper by which he can be identified, his vote will be void and will not be counted.

If the voter fraudulently takes a ballot paper out of the polling place, or fraudulently delivers to the deputy returning officer, to be placed in the ballot box, any other paper than the ballot paper given him by the deputy returning officer, he will be liable to imprisonment for one year.

In the following form of ballot paper, given for illustration, the candidates are Wm. R. Brown, Frank Hamon, Joseph O'Neil and John R. Smith, and the voter has marked his ballot paper in favour of John R. Smith, and the counterfoil has been detached.

FORM 4—Continued




1 WM. R. BROWN
of the City of Toronto, Barrister.




2 FRANK HAMON
of the City of Toronto, Artist.



3 JOSEPH O'NEIL
of the City of Toronto, Gentleman.



4 JOHN R. SMITH
of the City of Toronto, Merchant.

**X**

FORM 5

*(Section 25 (1))**To be put up at all Polling Places*

NOTICE AS TO SECRECY OF VOTING

It is the sworn duty of every person in attendance at this polling place, or at the counting of the votes, not to attempt to ascertain how any person is about to vote or has voted; and not to communicate any information obtained at the polling place which may enable or assist any person to ascertain how any person has voted.

It is further the sworn duty of every such person, by all proper means to maintain, and aid in maintaining, the absolute secrecy of the voting at this polling place.

Any person who acts in contravention of his duty in any of the said particulars is liable to imprisonment for any term not exceeding six months.

By *The Election Act*, it is further provided, that no person shall destroy, take, open or otherwise interfere with any ballot box or book or packet of ballot papers or a ballot paper or ballot in use for the purposes of the election, or shall attempt to do so; and that any returning officer, deputy returning officer or other officer engaged in the election who is guilty of any violation of that provision shall be liable to imprisonment for three years, and any other person guilty of such violation to imprisonment for one year. (*Section 190*)

The said Act further provides that, in addition to every other penalty and liability, any officer engaged in the election who is guilty of any wilful act or omission in contravention of the Act, shall forfeit to any person aggrieved thereby the sum of \$400. (*Section 195*)

A. B.,

Clerk of the Crown in Chancery

R.S.O. 1937, c. 8, Form 6.

FORM 7

(Sections 36, 47)

OATH OF RETURNING OFFICER

I, *A. B.*, Returning Officer for the Electoral District of swear (*or solemnly affirm*) that I am legally qualified to act as Returning Officer for the said Electoral District, and that I will act faithfully in that capacity, without partiality, fear, favour or affection. So help me God.

Sworn (*or affirmed*) before me at
the.....of.....this....
day of....., 19.....

A. B.,
Returning Officer

— A Commissioner, etc.
(*or as the case may be*)
See section 9

R.S.O. 1937, c. 8, Form 8.

FORM 8

(Section 37 (1))

PROCLAMATION OF THE RETURNING OFFICER DECLARING THE TIME
AND PLACE FOR THE NOMINATION OF CANDIDATES,
AND THE DAY FOR OPENING THE POLL

PROCLAMATION

Electoral District of

Public Notice is hereby given that in obedience to His Majesty's Writ to me directed, and bearing date the day of 19....., I require the presence of the voters at the Town Hall (*or as the case may be*), in the County (*or Township or City or Town*) of..... on the day of 19....., from one o'clock until two o'clock in the afternoon, for the purpose of nominating a person (*or persons, as the case may be*) to represent them in the Legislative Assembly; and notice is further given that in case a poll is demanded and allowed in the manner by law prescribed, such poll will be opened on the day of 19....., from the hour of eight o'clock in the forenoon until seven o'clock in the afternoon as follows:

For the polling subdivision No. 1, consisting of (*or bounded as follows: or otherwise describing it clearly*) at (*describing the polling place and so continuing for all the other polling subdivisions and polling places in the electoral district*).

And further, that at (*describe place where votes will be added up*) on the day of at the hour of, I shall open the ballot boxes, add up the votes given for the several candidates and declare to be elected the one having the largest number of votes.

Of which all persons are hereby required to take notice, and to govern themselves accordingly.

God Save the King.

Given under my hand at this day of in the year 19.....

A. B.,
Returning Officer

R.S.O. 1937, c. 8, Form 9.

FORM 9

(Section 43 (1))

COMMISSION OF ELECTION CLERK

To *E. F.* (*set forth his residence and occupation*)

In my capacity of Returning Officer for the Electoral District of I hereby appoint you to be my Election Clerk, to act in that capacity at the approaching election for the said Electoral District, which election will be opened by me on the day of 19.... (*the date to be inserted here is the day of nomination*).

Given under my hand this day of 19....

A. B.,
Returning Officer

R.S.O. 1937, c. 8, Form 10.

FORM 10

(Section 44)

OATH OF ELECTION CLERK

I, *E. F.*, appointed Election Clerk for the Electoral District of swear (*or solemnly affirm*) that I am legally qualified to act as Election Clerk and that I will act faithfully in that capacity and also in that of Returning Officer, if required to act in that capacity, without partiality, fear, favour or affection. So help me God.

Sworn (*or affirmed*) before me at
the.....of this.....
day of 19....

A Commissioner, etc.
(*or as the case may be*)
See section 9

E. F.,
Election Clerk

R.S.O. 1937, c. 8, Form 11.

FORM 11

(Section 58 (1))

PROCLAMATION WHICH THE RETURNING OFFICER IS TO CAUSE
TO BE READ ON NOMINATION DAY

Oyez! Oyez! Oyez!

All persons are commanded and strictly enjoined to keep silence while His Majesty's Writ for the present Election is publicly read.

God Save the King.

R.S.O. 1937, c. 8, Form 12.

FORM 12

(Section 58 (2))

FORM OF NOMINATION PAPER

We, the undersigned, electors of the Electoral District of
....., hereby nominate (*name, residence and addition*
or description of person nominated) as a candidate at the election now
about to be held of a member to represent the said Electoral District in
the Legislative Assembly. (*Where the person nominated is absent from*
Ontario, add The said
nominated in the foregoing nomination paper, is now absent from Ontario.)

Witness our hands at, in the said
Electoral District, this day of,
19.....

Signed by the said electors in the }
presence of } Signatures and residence and
..... (addition) } addition

I, the said, nominated in the foregoing
nomination paper, hereby consent to such nomination.

Witness my hand at, this day
of, 19.....

Signed by the said nominee in the }
presence of } J. K.
..... (addition) }

R.S.O. 1937, c. 8, Form 13.

FORM 13

(Section 62 (1))

WITHDRAWAL OF CANDIDATE

(Electoral District of)

I,, a candidate nominated for the above Electoral
District hereby withdraw.

Dated at, this day of, 19.....

.....
Candidate

Witness

R.S.O. 1937, c. 8, Form 14.

FORM 14

(Section 65 (1))

COMMISSION OF DEPUTY RETURNING OFFICER

To G. H. (*Insert his residence and occupation*)

In my capacity of Returning Officer for the Electoral District of I hereby appoint you to be Deputy Returning Officer for Polling Place No. of the Township (*or as the case may be*) of in the said Electoral District, there to take the votes of the voters and you are hereby authorized and required to open and hold the poll at the said Polling Place on the day of, 19...., at eight o'clock in the forenoon, at (*here describe particularly the place in which the poll is to be held*), and there to keep the said poll open during the hours prescribed by law, and to do and perform in such polling place all acts and duties required to be performed by the Deputy Returning Officer appointed to act therefor, and after counting the votes given, to return to me forthwith the ballot box sealed with your seal and enclosing the ballots, envelopes, polling list and other documents required by law, together with this Commission.

Given under my hand this day of, 19....

A. B.,
Returning Officer

R.S.O. 1937, c. 8, Form 15.

FORM 15

(Section 66)

OATH OF DEPUTY RETURNING OFFICER

I, G. H., appointed Deputy Returning Officer for Polling Place No. of the Township (*or as the case may be*) of, swear (*or solemnly affirm*) that I am legally qualified to act as Deputy Returning Officer and that I will act faithfully, in that capacity, without partiality, fear, favour or affection. So help me God.

Sworn (*or affirmed*) before me at
the of this
day of, 19....

A Commissioner, etc.
(*or as the case may be*)
See section 9

G. H.
Deputy Returning Officer

R.S.O. 1937, c. 8, Form 16.

FORM 16

(Section 72 (8))

FORM OF BALLOT PAPER

(Front)

The black line above the first name shall extend to the upper edge, and the black line below the last name shall extend to the lower edge of the ballot paper, and all black lines be prolonged to the edge of the paper. The black margin to the left represents the counterfoil and the space to the left of the counterfoil represents the stub. There shall be a line of perforations between the ballot and the counterfoil and between the counterfoil and the stub.

1 WM. R. BROWN
of the City of Toronto, Barrister.

2 FRANK HAMON
of the City of Toronto, Artist.

3 JOSEPH O'NEIL
of the City of Toronto, Gentleman.

4 JOHN R. SMITH
of the City of Toronto, Merchant.

FORM 16—*Continued*

FORM OF BALLOT PAPER

*(Back)*No. 325.
.....No. 325.
.....

POLL BOOK

No.

D. R. O.
INITIALS
.....ELECTORAL DISTRICT
OF
19

FORM 17

(Section 72 (5))

RECEIPT OF RETURNING OFFICER FOR BALLOT PAPER RECEIVED FROM
CLERK OF THE CROWN IN CHANCERY

I,, Returning Officer for the Electoral District of
, do hereby acknowledge that I have this day received
 from the Clerk of the Crown in Chancery sheets of ballot
 paper, ballots to the sheet, total weight
 the same being for use at the vote to be taken on the day
 of, 19.....

Dated this day of, 19.....

.....
 Returning Officer

R.S.O. 1937, c. 8, Form 18.

FORM 18

(Section 72 (7))

RECEIPT OF PRINTER FOR BALLOT PAPER RECEIVED FROM
RETURNING OFFICER

I (or We) do hereby acknowledge receipt of sheets of
 ballot paper, ballots to the sheet, from the Returning
 Officer for the Electoral District of the same to be
 printed as per instructions for use at the vote to be taken on the
 day of, 19.....

Dated this day of, 19.....

.....
 Printer

R.S.O. 1937, c. 8, Form 19.

FORM 19

(Section 72 (12))

AFFIDAVIT OF PRINTER

Electoral District of } I,
 swear (or solemnly affirm):

1. That by direction of the Returning Officer for the above-named Electoral District, I printed the ballot papers for use at the election to be held on the day of, 19...., (*insert date of polling*) on the paper furnished by him for that purpose.

2. That the annexed form shows the description of the ballot papers printed by me as aforesaid.

3. That I supplied the Returning Officer with of such ballot papers.

4. That I returned to the Returning Officer spoiled ballot papers and unused sheets of ballot papers.

5. That no other such ballot papers were printed by or supplied by me to anyone.

Sworn (or affirmed) before me at
 the..... of.....this.....
 day of, 19....

A Commissioner, etc.
 (or as the case may be)
 See section 9

(The Returning Officer will be particular to see that copy of ballot paper is annexed)

R.S.O. 1937, c. 8, Form 20.

FORM 20

(Section 74 (2))

RECEIPT FOR BALLOT PAPERS RECEIVED FROM RETURNING OFFICER

(Count your ballots, fill in this Form and forward at once to Returning Officer)

....., 19....

I,, Deputy Returning Officer for Polling Sub-division No..... in the Electoral District of hereby acknowledge that I have received from Mr....., Returning Officer for the said Electoral District, books of ballot papers and have carefully examined and counted them and find that they contain ballots.

.....
 Deputy Returning Officer

R.S.O. 1937, c. 8, Form 21.

FORM 21

(Section 78 (1))

OATH OF POLL CLERK

I, *I. J.*, appointed Poll Clerk for Polling Place No.
of the Township (*or as the case may be*) swear (*or solemnly affirm*) that
I am legally qualified to act as Poll Clerk and that I will act faithfully
in that capacity and also in that of Deputy Returning Officer, if required
to act in that capacity according to law, without partiality, fear, favour
or affection.

So help me God.

Sworn (*or affirmed*) before me at
the of this
day of, 19....

A Commissioner, etc.
(*or as the case may be*)
See section 9

I. J.,
Poll Clerk

R.S.O. 1937, c. 8, Form 22.

FORM 22

(Sections 78 (1), 81)

COMMISSION OF POLL CLERK

To *I. J.* (*Insert his residence and occupation*)

In my capacity of Deputy Returning Officer for the Polling Place
No., of the Township (*or as the case may be*), I hereby
appoint you to be Poll Clerk for the said Polling Place.

Given under my hand this day of,
19.....

G. H.,
Deputy Returning Officer

R.S.O. 1937, c. 8, Form 23.

FORM 23

(Section 85 (1))

CERTIFICATE OF RETURNING OFFICER FOR OUTSIDE VOTERS

I,, Returning Officer
for the Electoral District of at the request
of of the
of Merchant (*or as the case may be*),
an elector of the said Electoral District, who has been appointed Deputy
Returning Officer (*or Poll Clerk or Agent*) for
one of the Candidates at this election, (*as the case may be*) for polling
subdivision No., of the Township of
(*or as the case may be*) in the said Electoral District do hereby certify
that the said is entitled to vote at this
election at the polling place for the said polling subdivision, being the
polling place where he is to be stationed during the polling day.

.....
Returning Officer

....., 19.....

NOTE.—The above certificate is not to be signed by the returning
officer until the name, residence and occupation of the person to whom
it is to be granted have been inserted therein.

R.S.O. 1937, c. 8, Form 24.

FORM 24

(Section 88 (4))

NOTICE OF HOLDING AN ADVANCE POLL

Electoral District of

Notice is hereby given that pursuant to the provisions of *The Election Act* (section 88) a poll will be opened on and
the and days of, from
eight o'clock in the forenoon until five o'clock in the afternoon, and from
seven o'clock in the afternoon until ten o'clock in the afternoon.

The polling place for the Electoral District of
will be located at for the purpose of receiving the
votes of railway employees, sailors and travellers whose employment is
such as to necessitate their absence from time to time from their ordinary
place of residence, or who have reason to believe that they will be absent
upon the day fixed for the election.

The ballot box will be opened and the votes counted at
o'clock in the of
the day of at the said place.

Dated at this day of, 19.....

.....
Returning Officer

R.S.O. 1937, c. 8, Form 25.

FORM 25

(Section 89 (2))

APPOINTMENT OF PROXY

I,, of the of
 in the County of in the Province of Ontario, being
 a voter entered on the Voter's List, with a right to vote at the pending
 Ontario Election in the Municipality of in the Electoral
 District of in the Province of Ontario, hereby
 nominate and appoint of
 in the County of, as my true and lawful
 (occupation)
 attorney for me and in my name to vote at the said Election;

AND I HEREBY CERTIFY that I am a British subject, of the full
 age of 21 years, and otherwise entitled to vote at the said Election.

IN WITNESS WHEREOF I have hereunto set my hand on board the
 Steamship this day of
, 19.....

WITNESS:

}

R.S.O. 1937, c. 8, Form 26.

FORM 26

(Section 89 (5))

CERTIFICATE OF REVISING OFFICER

I, *A. B.*, the revising officer duly appointed under *The Voters' Lists Act*
 for the purpose of revising the voters' list to be used at the election now
 pending for the Electoral District of
 do certify that *C. D.*, a voter entered on the voters' list, and having the
 right to vote at the pending election in the Municipality of
 in the Electoral District of, duly appeared
 before me at my sittings for the revision of the lists for the Municipality of
, and that upon the evidence there tendered
 by him (or on his behalf) I find that *E. F.*, named in this appointment as
 a mariner, is duly qualified to vote at the said pending election, and that
 the said *C. D.* is a person duly qualified to act as proxy for the said mariner
 and to vote on his behalf at the said election.

Dated this day of, 19.....

.....
 Revising Officer

R.S.O. 1937, c. 8, Form 27.

FORM 27

(*Section 89 (7)*)FORM OF OATH TO BE ADMINISTERED TO A PROXY VOTING
FOR A MARINER

You swear:

1. That you are a proxy for the person named by the name of in the polling list now shown to you and that the said mariner is the person executing said proxy.

2. That the said mariner is of the full age of 21 years.

3. That the said mariner is a British subject.

4. That the said mariner is not a citizen or subject of any foreign country.

5. That the said mariner has resided within Canada for the 12 months last past, except for temporary absences as a mariner.

6. That the said mariner has resided in the electoral district continuously for the two months last past, and is now actually resident or domiciled therein except for such temporary absences as a mariner.

7. That the said mariner is not disqualified from voting at this election and is entitled to vote at this election and at this polling place.

8. That you verily believe that the said mariner has not voted before at this election or at any other polling place.

9. That you verily believe that the said mariner has not received anything or has anything been promised him directly or indirectly to induce him to vote at this election or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. That you verily believe that the said mariner has not directly or indirectly promised anything to any person to induce him to vote or refrain from voting at this election.

11. That you have not been paid or promised or received anything for or in connection with voting on behalf of the said mariner and that you verily believe that the said mariner executed the said proxy in good faith.

12. That you are voting on his behalf in good faith at this election.

So help you God.

R.S.O. 1937, c. 8, Form 28.

FORM 28

(Sections 94, 95 (3))

FORM OF OATH OF ALLEGIANCE

You swear* that you will be faithful and bear true allegiance to His Majesty, King George the Sixth (*or the reigning Sovereign for the time being*) as lawful Sovereign of Great Britain, Ireland and the Dominions beyond the Seas, and that you will defend Him to the utmost of your power against all traitorous conspiracies or attempts whatever which may be made against His Person, Crown and Dignity, and that you will do your utmost endeavour to disclose and make known to His Majesty, His Heirs or Successors, all treasons or traitorous conspiracies and attempts which you may know to be against Him or any of them; And all this you do swear without any equivocation, mental evasion or secret reservation. So help you God.

*If the voter is a person who may by law affirm in civil cases then for "swear" substitute "solemnly affirm".

R.S.O. 1937, c. 8, Form 39.

FORM 29

(Sections 94, 95 (3))

FORM OF OATH TO BE ADMINISTERED TO VOTER QUALIFIED UNDER
SECTION 18, PARAGRAPH 1

You swear*:

1. That you are the person named by the name of in the polling list now shown to you (*or where a voter votes under a certificate given under section 85 of The Election Act, that you are the person named in the certificate now shown to you*).

2. That you are of the full age of 21 years.

3. That you are a British subject.

4. That you are not a citizen or subject of any foreign country.

5. That you have resided within Canada for the 12 months last past.†

6. That you were resident in this electoral district at the date of the issue of the writ of election and have resided continuously since that date and now are actually resident and domiciled therein.†

(This is to be used in cities, towns or townships to which Part IV of *The Voters' Lists Act* applies)

(*or at the option of the voter*)

6. That you have resided in this electoral district continuously for two months next preceding the day of polling and are now actually resident and domiciled therein.†

(This applies to all electoral districts to which Part IV of *The Voters' Lists Act* does not apply)

(*or at the option of the voter*)

6. That you are the person named in the certificate now produced by you and issued under section 19 of *The Election Act* and have been since the issue of the said certificate and are now actually resident and domiciled in this electoral district.

(This is to be used in the case of a voter who is the holder of a certificate issued under section 19)

7. That you are not disqualified from voting at this election, and are entitled to vote at this election and at this polling place.

8. That you have not voted before at this election at this or any other polling place.

9. That you have not received anything nor has anything been promised you, directly or indirectly, to induce you to vote at this election or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

10. That you have not directly or indirectly paid or promised anything to any person to induce him to vote or refrain from voting at this election.

So help you God.

*If the voter is a person who may by law affirm in civil cases then for "swear" substitute "solemnly affirm".

†In case the voter has been temporarily absent, insert the following words "except occasionally or temporarily, or as a member of a permanent militia corps enlisted for continuous service, or on service as a member of the active militia, or as a student in attendance at an institution of learning in Canada, that is to say (*here name institution*) as the case may be.

R.S.O. 1937, c. 8, Form 30, *amended*.

FORM 30

(Sections 94, 95 (3))

FORM OF OATH TO BE ADMINISTERED TO VOTER QUALIFIED UNDER SECTION 18, PARAGRAPH 2, AND MARKED "S.F." ON POLLING LIST

You swear:*

1. That you are the person named, or intended to be named, by the name of, in the polling list now shown to you (*or where a voter votes under a certificate given under section 85 of The Election Act, that you are the person named in the certificate now shown to you*).

2. That you are a British subject.

3. That you served in the naval, military or air forces of Canada or the British Empire or any part or ally thereof in World War I or World War II (*naming the force in which the voter served*).

4. That you have not before voted at this election at this or any other polling place.

5. That you have not received anything nor has anything been promised to you directly or indirectly, to induce you to vote at this election, or for loss of time, travelling expenses, hire of conveyance or any service whatever connected with this election.

6. That you have not directly or indirectly paid or promised anything to any person to induce him to vote or refrain from voting at this election.

So help you God.

*If the voter is a person who may by law affirm in civil cases, then for "swear" substitute "solemnly affirm".

R.S.O. 1937, c. 8, Form 32; 1939 (2nd Sess.), c. 11, s. 3 (5).

FORM 31

(Section 100)

FORM OF OATH OF INABILITY TO READ

I, *A. B.*, of....., swear (*or* solemnly affirm) that I am unable to read [*or* that I am from physical incapacity unable to mark a ballot paper, (*as the case may be*)].

Sworn (*or* affirmed) before me at }
in the County of..... }
 this.....day of....., 19.. }
 Having been first read over to the }
 above named *A. B.*, and signed by }
 him in my presence with his mark. }

A. B. (His X mark)

..... }
 Deputy Returning Officer }

R.S.O. 1937, c. 8, Form 33.

FORM 32

(Section 100 (3))

OATH OF FRIEND OF BLIND VOTER

I,, of the
 (insert name of friend)
 of, in the County of,
 (occupation)
 name of the candidate for whom I mark the ballot of
, on whose behalf I act. So help me God.
 (name of blind voter)

Sworn before me at the..... }
 of, in the }
 of }
 this..... day of, 19... }
 }
 Deputy Returning Officer }

Signature of friend

R.S.O. 1937, c. 8, Form 34.

FORM 33

(Sections 117 (1), 138)

STATEMENT OF THE POLL AFTER COUNTING THE BALLOTS

Polling Place No.

Electoral District of

Number of ballot papers received from the returning officer.....		
Number of ballots cast for.....		
“ “ “ “ “		
“ “ “ “ “		
“ “ “ “ “		
“ “ “ “ “		
Number of ballot papers declined (Section 107)..		
Number of ballot papers taken from polling place (Section 107)		
Number of ballot papers cancelled (Section 109) ..		
Number of ballot papers rejected (Section 114) ..		
Number of ballot papers not used and returned..		
Totals		

We hereby certify that the above statement is correct.

Dated at, 19....

Poll Clerk

A. B.,
Deputy Returning Officer

(Candidates or agents may also sign)

R.S.O. 1937, c. 8, Form 35.

FORM 34

(Section 117 (3))

CERTIFICATE TO BE DELIVERED TO CANDIDATES, ETC.

I, the undersigned, Deputy Returning Officer for polling place No. in the of in the electoral district of, do hereby certify that, at the election held this day, for a member to serve in the Legislative Assembly, the hereinafter mentioned candidates received the number of ballots set opposite their respective names, viz.:

NAMES OF CANDIDATES	NUMBER OF BALLOTS
.....
.....
.....
.....
.....
.....
.....

and also that ballot papers were rejected.

Dated at, this day of, 19.....

G. H.,
Deputy Returning Officer

R.S.O. 1937, c. 8, Form 36.

FORM 35

(Section 118)

OATH OF THE POLL CLERK AFTER CLOSING OF THE POLL

I,, Poll Clerk for Polling Place No. of the Electoral District of, swear (or solemnly affirm) that the poll book for the said polling place kept under the direction of G. H., who acted as Deputy Returning Officer, has been kept by me correctly to the best of my skill and judgment; that the total number of votes polled according to the said poll book is; and that to the best of my knowledge and belief it contains a true and exact record of the voters who voted at the said polling place.

Sworn (or affirmed) before me at
the..... of this.....
day of....., 19.....

A Commissioner, etc.
(or as the case may be)
See Section 9

I. J.,
Poll Clerk

R.S.O. 1937, c. 8, Form 37.

FORM 36

(Section 120 (1))

OATH OF POLL CLERK OR MESSENGER WHERE THE DEPUTY
RETURNING OFFICER IS UNABLE TO DELIVER THE
BALLOT BOX TO THE RETURNING OFFICER

I,, swear (*or solemnly affirm*) that I am the person to whom Deputy Returning Officer for Polling Place No. of the of in the Electoral District of entrusted the ballot box for the said polling place to be delivered to the Returning Officer; that the ballot box which I delivered to the Returning Officer this day, is the ballot box I so received; that I have not opened it and that it has not been opened by any other person since I received it from the Deputy Returning Officer.

So help me God.

Sworn (<i>or affirmed</i>) before me at the of this day of, 19..... A Commissioner, etc. (<i>or as the case may be</i>) See Section 9	}
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R.S.O. 1937, c. 8, Form 38.

FORM 37

(Section 120 (3))

OATH OF DEPUTY RETURNING OFFICER AFTER CLOSING OF THE POLL

I,, Deputy Returning Officer for Polling Place No. of the Electoral District of, swear (*or solemnly affirm*) that, to the best of my knowledge and belief, the poll book kept for the said polling place under my direction has been kept correctly, that the total number of votes polled according to the said poll book is, and that it contains a true and exact record of the votes given at the said polling place, as the said votes were taken thereat; that I have correctly counted the votes given for each candidate, in the manner by law provided, and performed all duties required of me by law, and that the statement, polling list, poll book, envelopes containing ballot papers, and other documents required by law to be returned by me to the Returning Officer, have been faithfully and truly prepared and placed in the ballot box and are contained in the ballot box returned by me to the Returning Officer, which was locked and sealed by me, in accordance with the provisions of *The Election Act* and remained so locked and sealed while in my possession.

Sworn (<i>or affirmed</i>) before me at the of this day of, 19..... A Commissioner, etc. (<i>or as the case may be</i>) See Section 9	}
--	---

G. H.,
Deputy Returning Officer

R.S.O. 1937, c. 8, Form 39.

FORM 39

(Section 146 (4))

AFFIDAVIT TO BE TAKEN BY RETURNING OFFICER AFTER TRANSMITTING
HIS RETURN TO THE CLERK OF THE CROWN IN CHANCERY

I,, Returning Officer for the Electoral District
of swear (*or affirm*):

1. That, of the packets received by me as such Returning Officer from the deputy returning officers in respect of the recent election for the said Electoral District, I have not opened or permitted to be opened, any of the envelopes containing the ballot papers.

2. That I have not opened or permitted to be opened any of the packets so received except those authorized and directed to be opened by a returning officer under *The Election Act*.

3. That none of the other packets were opened by any person since they were returned to me by the deputy returning officers, (*or in the case of a recount add*, except by the Judge of the County Court, on a recount).

4. That I have not ascertained and have not attempted to ascertain from the ballot papers or other contents of any of the said packets how any person voted.

5. That I have this day transmitted to the Clerk of the Crown in Chancery my return in respect of the said election.

So help me God.

Sworn (*or affirmed*) before me at
the of this
day of 19.....

A Commissioner, etc.
(*or as the case may be*)
See Section 9

R.S.O. 1937, c. 8, Form 41.

FORM 40

(Section 162)

OATH OF SECRECY

Electoral District of, Polling Place No.

I,, swear (*or solemnly affirm*):

1. That I will not attempt to ascertain, and will by every means in my power prevent any other person from ascertaining how any person is about to vote or shall have voted at this election save and except as may be necessary and proper in the case of persons blind or unable to read, or incapable of marking their ballot papers as provided in *The Election Act*.

2. That I will not communicate to any person any information of any kind which may enable or assist any person to ascertain the candidate for whom any person has voted.

3. That I will in all respects maintain and aid in maintaining the absolute secrecy of the voting at this polling place.

So help me God.

Sworn (*or affirmed*) before me at
the of this
day of, 19

A Commissioner, etc.
(*or as the case may be*)
See Section 9

CHAPTER 113

The Embalmers and Funeral Directors Act

1. In this Act,

Interpre-
tation.

- (a) "approved school" means a school or college approved by the Board;
- (b) "articled student" means a student who is articled to a licensed funeral director or a licensed embalmer in accordance with the regulations;
- (c) "Board" means Board of Examiners appointed under this Act;
- (d) "certificate of qualification" means a certificate of qualification issued under this Act;
- (e) "embalming" means preservation of the dead human body, entire or in part, by the use of chemical substances, fluids or gases, ordinarily used, prepared or intended for such purpose, either by the outward application of such chemical substances, fluids or gases on the body, or by the introduction thereof into the body by vascular or hypodermic injection or by direct application into the organs or cavities, and "embalm" has a corresponding meaning;
- (f) "funeral director" means a person who operates for himself, or under his own or any other name for another person, partnership, firm or incorporated company, a business for the purpose of furnishing funeral supplies and services to the public;
- (g) "licence" means licence issued under this Act and includes a renewal thereof;
- (h) "licensed embalmer" means a person holding an embalmer's licence under this Act;
- (i) "licensed funeral director" means a person holding a funeral director's licence under this Act;

(j) "Minister" means Minister of Health;

(k) "permit" means a permit issued under this Act;

(l) "regulations" means regulations made under this Act. 1947, c. 33, s. 1.

Board of
Examiners.

2.—(1) The Board of Examiners shall consist of five persons of whom not less than three shall be licensed funeral directors and such persons shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure.

Officers.

(2) The Lieutenant-Governor in Council may appoint a member of the Board to act as chairman and another member to act as vice-chairman, and the members of the Board shall elect one of the members to be the secretary-treasurer.

Quorum.

(3) Three members of the Board shall constitute a quorum. 1947, c. 33, s. 2.

Assistant
secretary.

3. The Board may appoint an assistant secretary who shall be paid such remuneration out of the funds of the Board as the Board may determine. 1947, c. 33, s. 3.

Meetings.

4.—(1) The Board shall hold meetings at least three times in every year at such time and place as may be deemed advisable by the majority of the members and may hold additional meetings at the call of the chairman or of any two members.

Notice of
meetings.

(2) Notice of every meeting, whether general or special, shall be sent by the secretary-treasurer by prepaid registered post to every member of the Board at his address as last entered upon the register, not less than seven days before the day of the holding of the meeting.

Waiver of
notice.

(3) Notwithstanding any of the provisions of this section, where all the members of the Board are present and waive notice and consent to the holding of a meeting, a meeting of the Board may be held at any time and place. 1947, c. 33, s. 4.

Powers of
chairman
acting for
Board.

5.—(1) Where owing to the urgent nature of any situation requiring the consideration of the Board it is impossible to convene a meeting, the chairman shall act as and for the Board and shall report the circumstances of the case and the action taken thereon at the next meeting.

(2) The decision of the chairman in such circumstances shall, subject to subsection 3 of section 15, be final and binding unless and until reversed or altered by the Board. 1947, c. 33, s. 5. ^{Effect of decision of chairman.}

6.—(1) The receipts and expenditures of the Board shall be audited by a chartered accountant who is not a member of the Board. ^{Audit.}

(2) All moneys and securities received or held by the Board shall be held in the name of "Board of Examiners under *The Embalmers and Funeral Directors Act*" and the moneys may be deposited in a branch of a chartered bank or a Province of Ontario Savings Office and shall be withdrawn by the secretary-treasurer on the order of the Board, and securities may be purchased and sold by the secretary-treasurer on the order of the Board. 1947, c. 33, s. 6. ^{Moneys and securities.}

7. The Board shall make a report to the Minister, on or before the 31st day of January in every year, showing, ^{Report of Board.}

- (a) the names of all licensed embalmers and funeral directors in Ontario, specifying whether "embalmer" or "funeral director", and in the case of a funeral director, the name under which his business is carried on;
- (b) the number of new certificates of qualification granted during the preceding year and the persons to whom granted;
- (c) the number of applications for certificates of qualification refused during the preceding year, and the reason for refusal;
- (d) the number of certificates of qualification revoked during the preceding year, and the reason for revocation;
- (e) the amount of fees received during the preceding year;
- (f) the revenue and expenditure of the Board during the year in detail, and the assets and liabilities at the end of the year; and
- (g) such other matters as may be directed by the Minister. 1947, c. 33, s. 7.

8. *The Public Authorities Protection Act* shall apply to the members and officials of the Board. 1947, c. 33, s. 8. ^{Application of Rev. Stat., c. 303.}

Funeral
director's
licence
required.

9.—(1) No person shall act as a funeral director unless he is a licensed funeral director or is the holder of a permit.

Embalmer's
licence or
permit
required.

(2) No person shall embalm a dead human body unless he is a licensed embalmer or is the holder of a permit.

Exceptions.

(3) Subsection 2 shall not apply,

(a) to an articulated student working under the direct supervision of an embalmer;

(b) to a student of, or a person employed in a recognized school of medicine; or

(c) in a sparsely settled area where an embalmer is not available. 1947, c. 33, s. 9.

Shipment of
body out of
Ontario.

10. No person shall ship a dead human body out of Ontario unless it has been embalmed and prepared for shipment by a licensed embalmer. 1947, c. 33, s. 10.

Licence
renewals.

11.—(1) The Board may issue a funeral director's licence or an embalmer's licence to a person who,

(a) is the holder of a certificate of qualification;

(b) is not less than 21 years of age; and

(c) has complied with the requirements of the regulations,

and may issue renewals thereof.

Funeral
director's
licence.

(2) For the purposes of this Act and the regulations, every licensed funeral director shall be deemed to be a licensed embalmer.

Expiration.

(3) Every licence and every renewal thereof shall expire on the 31st day of December next following the date of such licence or renewal. 1947, c. 33, s. 11.

Permits.

12.—(1) For the purpose of serving the public in sparsely settled areas of Ontario, the Board may issue a permit to a person who is not the holder of a certificate of qualification.

Conditions;
expiration.

(2) A permit may be issued upon such terms and subject to such conditions as the Board may prescribe, and every permit shall expire on the 31st day of December next following the date thereof or upon such earlier date as the Board may determine. 1947, c. 33, s. 12.

13. Every person who holds a licence or permit shall cause it to be displayed at all times at his place of business or the place of business where he is employed, and failure to comply with this section shall be *prima facie* evidence that such person is not the holder of a licence or permit. 1947, c. 33, s. 13.

Display of
licence;
permit.

14.—(1) The Board may issue a certificate of qualification to any person,

Certificate of
qualification.

(a) who,

(i) has served the period of apprenticeship required by the regulations and completed a course at an approved school, or

(ii) is the holder of a certificate of qualification issued by the board of examiners under any public general Act of Ontario relating to embalmers and undertakers or embalmers and funeral directors, or

(iii) satisfies the Board that for a period of not less than five years he held a licence and was engaged as an embalmer in a jurisdiction designated by the regulations;

(b) who satisfies the Board that he is of good moral character;

(c) who passes examinations prescribed by the Board; and

(d) who pays the prescribed fee.

(2) A certificate of qualification issued by the board of examiners under any public general Act of Ontario relating to embalmers and undertakers or embalmers and funeral directors to a person who on the 30th day of June, 1947, was licensed as an embalmer or funeral director shall have the same force and effect as a certificate of qualification issued under this Act.

Effect of
certain cer-
tificates.

(3) Where the holder of a certificate of qualification is not the holder of a licence for a period of five consecutive years, the certificate of qualification shall *ipso facto* be deemed to be revoked. 1947, c. 33, s. 14.

Cancell-
ation by
failure to
use.

15.—(1) The Board may suspend the licence or permit of any person for such period and upon such conditions as it deems proper.

Suspension
of licence,
permit.

Cancellation of licence, permit.

(2) The Board may revoke the certificate of qualification and cancel the licence of any person, or may cancel the permit of any person where all of the members of the Board find that such person has been guilty of infamous or disgraceful conduct in a professional respect, as defined by the regulations.

Appeal.

(3) Any person in respect of whom action is taken by the Board under this section may, within seven days of receiving notice in writing of the Board's action, appeal in writing to the Minister who may give such direction to the Board as he deems proper and there shall be no appeal therefrom. 1947, c. 33, s. 15.

Re-issue of certificate of qualification.

16. Where the certificate of qualification of any person has been revoked, the Board may issue a certificate of qualification to him where he,

(a) satisfies the Board that he is of good moral character, and that he is a fit and proper person to be the holder of a certificate of qualification; and

(b) pays the prescribed fees. 1947, c. 33, s. 16.

More than one place of business.

17. Where a funeral director carries on business with the public at more than one place of business,

(a) he may act as manager of only one of such places of business and each of the other places of business shall be deemed to be a branch;

(b) he shall employ a different licensed funeral director as manager of each branch; and

(c) the manager of each branch shall have his ordinary residence,

(i) in the same municipality as the branch, or

(ii) within five miles of the branch. 1947, c. 33, s. 17.

Limitation of actions for negligence.

18. A licensed embalmer or licensed funeral director shall not be liable to any action for negligence or malpractice in respect of professional services requested or rendered, unless the action is commenced within three months from the date when, in the matter complained of, such professional services terminated. 1947, c. 33, s. 18.

19. The Board may,

Schools.

- (a) approve any school or college which has for its purpose instruction in embalming and general preparation for and burial of the dead human body; and
- (b) pay out of the funds held by the Board such sums as it may deem proper to assist in the establishment or maintenance of any such school. 1947, c. 33, s. 19.

20. Subject to the approval of the Lieutenant-Governor in Council, the Board may make regulations, Regulations.

- (a) prescribing the equipment, facilities and other requirements for approved schools;
- (b) prescribing the requirements for admission to approved schools;
- (c) prescribing the courses of training and instruction for approved schools;
- (d) providing for a system of apprenticeship under articles of apprenticeship for students of approved schools and prescribing a limitation upon or otherwise regulating the number of articulated students;
- (e) providing for the registration of articulated students with the Board;
- (f) providing for the examination of candidates for certificates of qualification;
- (g) authorizing the Board to alter the requirements of section 14 and the regulations in the case of an applicant for a certificate of qualification who has had special experience or training either within or outside of Ontario;
- (h) prescribing jurisdictions for the purpose of subclause iii of clause *a* of subsection 1 of section 14;
- (i) providing for special courses of training and instruction for holders of certificates of qualification and requiring holders of certificates of qualification to take all or any of such courses;
- (j) providing for the issue of certificates of qualification and the issue and renewal of licences and permits;

- (*k*) prescribing fees payable to the Board by articulated students, applicants for certificates of qualification and upon the issue and renewal of licences and permits including special fees payable in special circumstances;
- (*l*) prescribing minimum standards for the premises, accommodation and equipment of funeral directors and providing for the inspection and approval thereof;
- (*m*) governing the embalming materials which may be used in embalming a dead human body;
- (*n*) regulating the practice and procedure upon hearings of the Board;
- (*o*) defining "infamous or disgraceful conduct in a professional respect";
- (*p*) prescribing the books and records to be kept by the Board;
- (*q*) prescribing the duties of the secretary-treasurer and the assistant secretary of the Board;
- (*r*) providing for the employment by the Board of such persons or services as may be required and for the payment of expenses;
- (*s*) providing for the payment of a *per diem* allowance and an allowance for travelling and living expenses to members of the Board while engaged upon the business of the Board;
- (*t*) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1947, c. 33, s. 20.

Offences and
penalties.

21.—(1) Every person who,

- (*a*) violates any of the provisions of section 9; or
- (*b*) not being the holder of a licence, holds himself out as an embalmer or uses any sign, letters, words or abbreviation implying that he is an embalmer; or
- (*c*) not being the holder of a funeral director's licence, holds himself out as a funeral director or uses any

sign, letters, words or abbreviation implying that he is a funeral director; or

- (d) violates any of the other provisions of this Act or the regulations,

shall be guilty of an offence and, subject to subsection 2, on summary conviction shall be liable to a penalty of not more than \$25.

(2) Where an offence prescribed in clause *a*, *b* or *c* of sub-^{Continuing offence;} section 1 continues beyond one day, the penalty shall be not ^{penalty.} more than \$25 for each day during which the offence continues.
1947, c. 33, s. 21.

CHAPTER 114

The Employment Agencies Act

1. In this Act,

Interpre-
tation.

- (a) "Deputy Minister" means Deputy Minister of Labour;
- (b) "employment agency" includes the business of procuring any person or persons for employment in any profession, business, trade, labour, work, service or other means of livelihood or of procuring employment therein for any person or persons;
- (c) "private employment agency" means an employment agency in which the business of an employment agency is carried on for fee or reward;
- (d) "regulations" means regulations made under this Act;
- (e) "Treasurer" means Treasurer of Ontario;
- (f) "voluntary employment agency" means any charitable or other organization carried on without fee or reward by any voluntary organization, or a municipal corporation or any department or commission thereof or by any other persons. R.S.O. 1937, c. 248, s. 1.

2.—(1) The Deputy Minister may issue to any individual, ^{Licence.} or to any association of individuals, or to any firm or corporation, a licence to carry on the business of an employment agency.

(2) The licence shall remain in force until the 1st day of ^{Term of} July in the year next following that in which it is issued. ^{licence.}

(3) The licence shall state the address at which the business ^{To state} is to be carried on. ^{address.}

(4) Where an employment agency is carried on by means ^{Separate} of offices, branches or agencies in different municipalities, a ^{licence and} separate licence shall be required and a separate fee shall be ^{fee in each} payable in respect thereof for each municipality. ^{municipality.} R.S.O. 1937, c. 248, s. 2.

Penalty for carrying on business without licence.

3. Every person who carries on the business of an employment agency without such licence shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$500, and in the case of an offence committed by an individual, he shall, in default of immediate payment of such penalty, be imprisoned for a term of twelve months unless the penalty and costs are sooner paid. R.S.O. 1937, c. 248, s. 3.

Regulations.

4. The Lieutenant-Governor in Council may make regulations,

- (a) fixing the fees to be charged for licences for private employment agencies and for the different classes of voluntary employment agencies, and for providing that in the case of any voluntary employment agency a nominal fee shall be charged for the licence;
- (b) classifying private employment agencies according to the class of employment to be procured, and limiting the class of business which may be carried on by any employment agency;
- (c) prohibiting the granting of licences to any class of employment agencies in Ontario;
- (d) excepting from any such prohibition any employment agency or class of employment agencies, or for excepting from such prohibition any particular class of employment;
- (e) regulating the conduct of the business of employment agencies and prescribing the records, books and accounts to be kept by any class of employment agency;
- (f) requiring security to be given by licensees and for fixing the amount of such security and declaring that a licence may be granted to any class of employment agency without security being given;
- (g) fixing the amount of the fee, reward or other remuneration to be charged for services rendered by an employment agency in procuring employees or employment;
- (h) providing for returns to be made when and as required by persons and firms to whom licences are issued;

- (i) providing for the appointment of inspectors and the inspection of employment agencies;
 - (j) for the revocation and cancellation of a licence upon the conviction of the holder thereof for any offence or upon proof to the satisfaction of the Deputy Minister that the business of the licensee is being conducted dishonestly, unfairly or improperly;
 - (k) conferring upon the Deputy Minister and upon the inspectors of employment agencies the power to hold inquiries into the conduct of the business of an employment agency and to take evidence under oath and providing that the Deputy Minister or inspector shall for the purpose of such inquiry have and exercise the powers which may be conferred upon a commissioner under *The Public Inquiries Act*; Rev. Stat., c. 308.
 - (l) exempting any voluntary employment agency or any class of voluntary employment agencies from the operation of this Act;
 - (m) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 248, s. 4.
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CHAPTER 115

The Entry of Horses at Exhibitions Act

1. No person shall enter or cause to be entered for competition for any purse, prize, premium, stake or sweepstake offered or given by any agricultural or other society or association, where the contest is to be decided by speed, any horse, colt or filly under a false or assumed name or pedigree, or in a class different from that to which such horse, colt or filly properly belongs by the rules of the society or association in which such contest is to take place. R.S.O. 1937, c. 308, s. 1.

2. The name of a horse, colt or filly, for the purpose of entry for such competition in any contest of speed, shall not be changed after having once been entered in any such contest, except as provided by the code of rules of the society or association under which the contest is conducted. R.S.O. 1937, c. 308, s. 2.

3. The class to which a horse, colt or filly properly belongs, for the purpose of entry in any such contest of speed, shall be determined by the public performance of such horse, colt or filly in some former, if any, contest or trial of speed, as provided by the rules of the society or association under which the proposed contest is to be conducted. R.S.O. 1937, c. 308, s. 3.

4.—(1) Every person who violates any of the provisions of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$200, and in case of non-payment of the penalty, imprisonment may be imposed for a term of not more than six months.

(2) Any prosecution under this Act may be commenced within two years from the commission of the offence. R.S.O. 1937, c. 308, s. 4.

CHAPTER 116

The Escheats Act

1. In this Act,

Interpre-
tation.

- (a) "heir" means a person beneficially entitled to real or personal property of an intestate;
- (b) "property" includes real and personal property. 1942, c. 14, s. 1.

2.—(1) Where any property has become the property of the Crown by reason of the person last seised thereof or entitled thereto having died intestate and without lawful heirs, or has become forfeited for any cause to the Crown, the Public Trustee may cause possession thereof to be taken in the name of the Crown, or if possession is withheld may cause an action to be brought for the recovery thereof, without an inquisition being first made. Proceedings for re-covery of property.

(2) The proceedings in the action may be in all respects similar to those in other actions for the recovery of property. 1942, c. 14, s. 2. Practice.

3. The Lieutenant-Governor in Council may grant any property which has become the property of or has become forfeited to the Crown as hereinbefore mentioned, or any part thereof, or any interest therein, to any person for the purpose of transferring or restoring the same to any person having a legal or moral claim upon the person to whom the same had belonged, or of carrying into effect any disposition thereof which such person may have contemplated, or of rewarding any person making discovery of the escheat or forfeiture, as to the Lieutenant-Governor in Council may seem proper. 1942, c. 14, s. 3. Grant of forfeited property.

4. Any such grant may be made without actual entry or taking possession of such property or inquisition being first made, and, if possession of the property is withheld, the person to whom the grant is made may institute, in any court of competent jurisdiction, proceedings for the recovery thereof. 1942, c. 14, s. 4. Rights of grantee.

Release or
waiver of
forfeiture.

5. Where any such forfeiture takes place, the Lieutenant-Governor in Council may waive or release any right to which the Crown may thereby have become entitled so as to vest the property, either absolutely or otherwise, in the person who would have been entitled thereto but for the forfeiture, and the waiver or release may be either for valuable consideration or otherwise and may be upon such terms and conditions as to the Lieutenant-Governor in Council may seem proper. 1942, c. 14, s. 5.

Sale of
real estate.

6.—(1) Where possession of any real estate or interest therein has been taken by the Public Trustee under the provisions of this Act, the Lieutenant-Governor in Council may direct the sale of such real estate at such price and upon such terms as may be determined, and the Public Trustee shall thereupon be authorized to sell, in accordance with the directions of the Order in Council, the whole or any part of such real estate or any interest therein and to convey the same to the purchaser.

Sale of
personal
estate.

(2) Where possession of any personal estate has been taken by the Public Trustee under this Act, the Public Trustee may sell such personal estate at such price and upon such terms as to him may seem proper. 1942, c. 14, s. 6.

CHAPTER 117

The Estates Tail Act

1.—(1) In this Act,

Interpre-
tation.

- (a) “actual tenant in tail” means exclusively the tenant of an estate tail which has not been barred, and such tenant shall be deemed an actual tenant in tail, although the estate tail may have been divested or turned into a right;
- (b) “base fee” means exclusively that estate in fee simple into which an estate tail is converted where the issue in tail are barred, but persons claiming estates by way of remainder or otherwise are not barred;
- (c) “estate” includes an estate in equity as well as at law and any interest, charge, lien or encumbrance in, upon or affecting land, either at law or in equity, and any interest, charge, lien or encumbrance in, upon or affecting money subject to be invested in the purchase of land;
- (d) “estate tail” includes a base fee into which an estate tail has been converted;
- (e) “land” includes messuages, lands, tenements, rents and hereditaments of any tenure and whether corporeal or incorporeal, and any undivided share thereof;
- (f) “money subject to be invested in the purchase of land” includes money, whether raised or to be raised, and whether the amount thereof is or is not ascertained, and extends to stocks and funds, and real and other securities, the produce of which is directed to be invested in the purchase of land and the land to be purchased with such money or produce includes land of any tenure out of Ontario, where such land is within the scope or meaning of the trust or power directing or authorizing the purchase;
- (g) “tenant in tail” includes a person who, where an estate tail has been barred and converted into a base fee, would have been tenant of such estate tail if the same had not been barred;

- (h) "tenant in tail entitled to a base fee" means a person entitled to a base fee, or to the ultimate beneficial interest in a base fee, and who, if the base fee had not been created, would have been actual tenant in tail.

Settlement.

(2) Every assurance already made or hereafter to be made whether by deed, will, Act of the Legislature or otherwise, by which land heretofore has been or may hereafter be entailed, or agreed or directed to be entailed, shall be deemed a settlement.

Appointment in exercise of a power under a settlement.

(3) Every appointment made in exercise of any power contained in a settlement, or of any other power arising out of the power contained in a settlement, shall be considered as a part of such settlement, and the estate created by such appointment shall be considered as having been created by such settlement.

What deemed date of settlement.

(4) Where such settlement is made by will the time of the death of the testator shall be considered the time when such settlement was made. R.S.O. 1937, c. 156, s. 1.

Invalidity of warranties.

2. All warranties of land made or entered into by a tenant in tail thereof shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination or in defeasance of the estate tail. R.S.O. 1937, c. 156, s. 2.

Power to dispose of lands in fee simple or for a less estate, etc.

3. Every actual tenant in tail, whether in possession, remainder, contingency or otherwise, may dispose of, for an estate in fee simple absolute, or for any less estate, the land entailed as against all persons claiming the land entailed by force of any estate tail vested in or which might be claimed by or which, but for some previous act, would have been vested in, or might have been claimed by the person making the disposition at the time of his making the same, and also as against all persons, including His Majesty, whose estates are to take effect after the determination, or in defeasance of such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition is made, and the rights of all other persons except those against whom such disposition is, by this Act, authorized to be made. R.S.O. 1937, c. 156, s. 3.

Exceptions.

4. The power of disposition hereinbefore contained shall not extend to tenants of estates tail who, by any Act, are restrained from barring their estates tail or to tenants in tail after possibility of issue extinct. R.S.O. 1937, c. 156, s. 4.

5. Where an estate tail has been barred and converted into a base fee, the person who, if such estate tail had not been barred, would have been actual tenant in tail of land may dispose of such land as against all persons, including His Majesty, whose estates are to take effect after the determination, or in defeasance of the base fee into which the estate tail has been converted, so as to enlarge the base fee into a fee simple absolute; saving always the right of all persons, in respect of estates prior to the estate tail which has been converted into a base fee, and the rights of all other persons except those against whom such disposition is by this Act authorized to be made. R.S.O. 1937, c. 156, s. 5.

Power to enlarge base fees saving the rights of certain persons.

6. Nothing in this Act shall enable any person to dispose of any land entailed in respect of any expectant interest which he may have as issue inheritable to any estate tail therein. R.S.O. 1937, c. 156, s. 6.

Entail of expectant interest.

7. If a tenant in tail makes a disposition of the land under this Act, by way of mortgage, or for any other limited purpose, such disposition shall, to the extent of the estate thereby created, be an absolute bar to all persons as against whom such disposition is by this Act authorized to be made, notwithstanding any intention to the contrary expressed or implied in the deed by which the disposition is effected; but if the estate created by such disposition is only an estate *pur autre vie*, or for years absolute or determinable, or if, by a disposition under this Act by a tenant in tail, an interest, charge, lien or encumbrance is created without a term of years absolute or determinable, or any greater estate for securing or raising the same, then such disposition shall be a bar only so far as may be necessary to give full effect to the mortgage, or to such other limited purpose, or to such interests, lien, charge or encumbrance, notwithstanding any intention to the contrary expressed or implied in the deed by which the disposition is effected. R.S.O. 1937, c. 156, s. 7.

Extent of estate created by a tenant in tail by way of mortgage or for any other limited purpose.

8. If at the time there is a tenant in tail of land under a settlement, and there is subsisting in the same land, or any part of it, under the same settlement, an estate for years, determinable on the dropping of a life or lives, or any greater estate, not being an estate for years, prior to the estate tail, then the person who is the owner of the prior estate, or the first of such prior estates, if more than one, then subsisting under the same settlement, or who would have been the owner if no absolute disposition thereof had been made, the first of such prior estates, if more than one, being all for the purposes of this Act deemed the prior estate, shall be the protector of the settlement so far as regards the land in

Protector of the settlement.

which such prior estate is subsisting, and shall, for all the purposes of this Act, be deemed the owner of such prior estate although the same may have been charged or encumbered either by the owner thereof or by the settlor or otherwise howsoever, and although the whole of the rents and profits are exhausted, or are required for the payment of the charges and encumbrances on such prior estate, and although such prior estate may have been absolutely disposed of by the owner thereof, or by or in consequence of the bankruptcy or insolvency of such owner, or by any other act or default of such owner, and an estate by the curtesy in respect of the estate tail, or of any prior estate created by the same settlement, shall be deemed a prior estate under the same settlement within the meaning of this section, and an estate by way of resulting use or trust to or for the settlor shall be deemed an estate under the same settlement within the meaning of this section. R.S.O. 1937, c. 156, s. 8.

Protector
in case of
joint owner-
ship of prior
estate.

9. Where two or more persons are owners, under a settlement within the meaning of this Act, of a prior estate, the sole owner of which estate, if there had been only one, would, in respect thereof, have been the protector of such settlement, each of such persons, in respect of such undivided share as he could dispose of, shall, for all the purposes of this Act, be deemed the owner of a prior estate, and shall in exclusion of the other or others of them be the sole protector of such settlement to the extent of such undivided share. R.S.O. 1937, c. 156, s. 9.

When a
married
woman
is the
protector.

10. Where a married woman would, if single, be the protector of a settlement in respect of a prior estate which is not thereby settled or agreed, or directed to be settled to her separate use, she and her husband together shall, in respect of such estate, be the protector of such settlement and shall be deemed one owner; but if such prior estate has by such settlement been settled or agreed, or directed to be settled to her separate use, or is, by *The Married Women's Property Act*, her separate estate, she alone in respect of such estate shall be the protector of such settlement. R.S.O. 1937, c. 156, s. 10.

Rev. Stat.,
c. 223.

As to estates
confirmed or
restored by
settlement.

11. Except in the case of a lease hereinafter provided for, where an estate is limited by a settlement, by way of confirmation, or where the settlement merely has the effect of restoring an estate, such estate shall, for the purpose of this Act, so far as regards the protector of the settlement be deemed an estate subsisting under such settlement. R.S.O. 1937, c. 156, s. 11.

12. Where a lease at a rent is created or confirmed by a settlement, the person in whose favour such lease is created or confirmed shall not, in respect thereof, be the protector of such settlement. R.S.O. 1937, c. 156, s. 12.

As to leases at rent created by settlement.

13. No woman in respect of her dower, and no bare trustee, heir, executor, administrator or assign, in respect of any estate taken by him as such, shall be the protector of a settlement. R.S.O. 1937, c. 156, s. 13.

Who may not be protector.

14. Where under a settlement there is more than one estate prior to an estate tail, and the person who is the owner, within the meaning of this Act, of such prior estate in respect of which, but for sections 12 and 13 or one of them, he would have been the protector of the settlement, is by virtue of such sections, or either of them, excluded from being the protector, then the person, if any, who, if such estate did not exist, would be the protector of the settlement, shall be such protector. R.S.O. 1937, c. 156, s. 14.

Who shall be the protector in certain cases.

(For protectors in cases of dispositions before July, 1846, and of settlements before January, 1834, see R.S.O. 1897, c. 122, ss. 17-19.)

15. Any settlor entailing land may appoint, by the settlement by which the land is entailed, any number of persons *in esse*, not exceeding three, to be protector of the settlement in lieu of the person who would have been the protector if this section had not been enacted, and either for the whole or any part of the period for which such person might have continued protector, and, by means of a power to be inserted in such settlement, to perpetuate, during the whole or any part of such period, the protectorship of the settlement in any one person or number of persons *in esse* whom the donee of the power thinks proper, by deed, to appoint protector of the settlement in the place of any one person, or number of persons, who may die, or, by deed, relinquish his or their office of protector, and the person or persons so appointed shall, in case of there being no other person then protector of the settlement, be the protector, and shall, in case of there being any other person then protector of the settlement, be protector jointly with such other person; but the number of the persons to compose the protector by virtue or means of any such appointment shall never exceed three. R.S.O. 1937, c. 156, s. 15.

Power to any settlor to appoint protector.

16.—(1) Every deed by which a protector is appointed under a power in a settlement, and every deed by which a protector relinquishes his office shall be void unless registered

Registration of deeds appointing protectors.

in the registry office of the registry division wherein the land referred to lies, within six months after the execution thereof.

Who may
be eligible
as protector.

(2) The person who, but for section 15, would have been sole protector of the settlement may be one of the persons to be appointed protector under that section, if the settlor thinks fit, and shall, unless otherwise directed by the settlor, act as sole protector, if the other persons constituting the protector have ceased to be so by death or relinquishment of the office by deed, and no other person has been appointed in their place. R.S.O. 1937, c. 156, s. 16.

Supreme
Court as
protector in
cases of
disability.

17.—(1) If any person, protector of a settlement,

- (a) is a mental incompetent, mental defective, or of unsound mind, whether he has or has not been so found; or
- (b) is convicted of treason or felony; or
- (c) not being the owner of a prior estate under a settlement is an infant; or
- (d) if it is uncertain whether he is living or dead,

the Supreme Court shall be the protector of the settlement in lieu of such person.

Idem, if no
appointment.

(2) If any settlor entailing land declares, in the settlement by which the land is entailed, that the person who, as owner of a prior estate under such settlement, would be entitled to be protector of the settlement shall not be the protector, and does not appoint any person to be protector in his stead, the Supreme Court shall, as to the land in which the prior estate is subsisting, be the protector of the settlement during the continuance of such estate.

Idem.

(3) If in any other case there is subsisting under a settlement an estate prior to an estate tail under the same settlement, and such prior estate is sufficient to qualify the owner thereof to be protector of the settlement, and there happens at any time to be no protector of the settlement as to the land in which the prior estate is subsisting, the Supreme Court shall, while there is no such protector and the prior estate is subsisting, be the protector of the settlement as to such land. R.S.O. 1937, c. 156, s. 17.

Consent of
protector to
disposition.

18. If at the time when any person, actual tenant in tail of land under a settlement, but not entitled to the remainder

or reversion in fee immediately expectant on the determination of his estate tail, is desirous of making, under this Act, a disposition of the land entailed, there is a protector of such settlement, then the consent of such protector shall be requisite to enable such actual tenant in tail to dispose of the land entailed to the full extent to which he is hereinbefore authorized to dispose of the same; but such actual tenant in tail may, without such consent, make a disposition under this Act of the land entailed, which shall be good against all persons who, by force of any estate tail vested in or which might be claimed by, or which, but for some previous act or default, would have been vested in or might have been claimed by the person making the disposition at the time of his making the same, may claim the land entailed. R.S.O. 1937, c. 156, s. 18.

19. Where an estate tail has been converted into a base fee, so long as there is a protector of the settlement by which the estate tail was created, the consent of such protector shall be requisite to enable the person who would have been tenant of the estate tail if the same had not been barred, to exercise, as to the land in respect of which there is such protector, the power of disposition hereinbefore contained. R.S.O. 1937, c. 156, s. 19.

In case of conversion into base fee.

20. Any device, shift or contrivance by which it is attempted to control the protector of a settlement in giving his consent, or to prevent him in any way from using his absolute discretion in regard to his consent, and also any agreement entered into by the protector of a settlement to withhold his consent, shall be void, and the protector of a settlement shall not be deemed to be a trustee in respect of his power of consent, and no court shall control or interfere to restrain the exercise of his power of consent or treat his giving consent as a breach of trust. R.S.O. 1937, c. 156, s. 20.

Powers of protector.

21. The rules of equity in relation to dealings and transactions between the donee of a power and any object of the power in whose favour the same may be exercised shall not apply to dealings and transactions between the protector of a settlement and a tenant in tail under the same settlement upon the occasion of the protector giving his consent to a disposition by a tenant in tail under this Act. R.S.O. 1937, c. 156, s. 21.

Exclusion of certain rules of equity.

22.—(1) Where a tenant in tail of land under a settlement has created in such land, or any part thereof, a voidable estate in favour of a purchaser for valuable consideration and afterwards, by an assurance other than a lease not re-

Confirmation of voidable estate by a subsequent disposition under this Act.

quiring registration under section 25, makes a disposition, under this Act, of the land in which such voidable estate has been created, or any part thereof, such disposition, whatever its object may be, and whatever may be the extent of the estate intended to be thereby created, shall, if made by the tenant in tail with the consent of the protector of the settlement, or by the tenant in tail alone, if there be no such protector, have the effect of confirming such voidable estate in the land thereby disposed of to its full extent as against all persons except those whose rights are saved by this Act.

Consent of protector.

(2) If, at the time of making such disposition, there is a protector of the settlement, and such protector does not consent to the disposition, and the tenant in tail is not without such consent capable under this Act of confirming the voidable estate to its full extent, then such disposition shall have the effect of confirming such voidable estate so far as such tenant in tail would then be capable under this Act of confirming the same without such consent.

Exception.

(3) If such disposition is made to a purchaser for valuable consideration, not having express notice of the voidable estate, the voidable estate shall not be confirmed as against such purchaser and the person claiming under him. R.S.O. 1937, c. 156, s. 22.

Enlargement of base fees when united with the immediate reversion or remainder.

23. If a base fee in any land and the remainder or reversion in fee in the same land are united in the same person, and there is no intermediate estate between the base fee and the remainder or reversion, the base fee shall not merge, but shall be *ipso facto* enlarged into as large an estate as the tenant in tail, with the consent of the protector, if any, might have created by any disposition under this Act, if such remainder or reversion had been vested in any other person. R.S.O. 1937, c. 156, s. 23.

Methods whereby tenant in tail must make a disposition.

24.—(1) Every disposition of land under this Act by a tenant in tail thereof shall be effected by some one of the assurances, not being a will, by which such tenant in tail could have made the disposition if his estate were an estate at law in fee simple absolute, and no disposition by a tenant in tail shall be of any force, under this Act, unless made or evidenced by deed.

Invalidity under Act of mere contracts.

(2) No disposition by a tenant in tail resting only in contract, either expressed or implied, or otherwise, and whether supported by a valuable or meritorious consideration or not, shall be of any force, under this Act, notwithstanding such disposition is made or evidenced by deed. R.S.O. 1937, c. 156, s. 24.

25. No assurance by which any disposition of land is effected under this Act by a tenant in tail thereof, except a lease for any term not exceeding 21 years, to commence from or within 12 months from the date of such lease when such a lease is at rack-rent or not less than five-sixth parts of rack-rent, and except a lease made under the powers conferred by section 32 of *The Settled Estates Act*, shall have any operation under this Act unless it is registered in the registry office of the registry division wherein the land referred to lies within six months after the execution thereof. R.S.O. 1937, c. 156, s. 25.

Necessity for registration of assurance by a tenant in tail other than certain leases.
Rev. Stat., c. 357.

26.—(1) The consent of a protector of a settlement to the disposition under this Act of a tenant in tail shall be given either by the same assurance by which the disposition is effected or by a deed distinct from the assurance, and executed either on or at any time before the day on which the assurance is made, otherwise the consent shall be void.

When consent of protector to be given.

(2) If the protector of a settlement gives his consent to the disposition of a tenant in tail by a distinct deed it shall be considered that such protector has given an absolute and unqualified consent, unless, in such deed, he refers to the particular assurance by which the disposition is effected, and confines his consent to the disposition thereby made.

Effect of consent by distinct deed.

(3) The protector of a settlement who, under this Act, has given his consent to the disposition of a tenant in tail shall not revoke such consent.

Irrevocability of a consent.

(4) A married woman being, either alone or jointly with her husband, protector of a settlement may, under this Act, in the same manner as if she were a *feme sole*, give her consent to the disposition of a tenant in tail.

A married woman protector.

(5) The consent of the protector of a settlement to the disposition of a tenant in tail shall, if given by a deed distinct from the assurance by which the disposition is effected, be void unless such deed is registered in the registry office of the registry division wherein the land referred to lies, either at or before the time of the registration of the assurance. R.S.O. 1937, c. 156, s. 26.

Necessity for registration of consent by distinct deed.

27.—(1) In the case of a disposition of land under this Act by the tenant in tail thereof, and in the case of a consent by the protector of a settlement to such a disposition, the equitable jurisdiction of the courts in regard to the specific performance of contracts and the supplying of defects in the execution of the powers of disposition given by this Act to tenants in tail, or the powers of consent given by this Act

Equitable jurisdiction of the courts excluded from giving any effect to dispositions in tail, etc.

36 V. c. 8.

to protectors of settlements, and the supplying under any circumstances of the want of execution of such powers of disposition and consent respectively, and in regard to giving effect in any other manner to any act or deed by a tenant in tail or protector of a settlement, which before the passing of *The Administration of Justice Act of 1873* would not, in a court of law, be an effectual disposition or consent within the meaning of this Act shall be altogether excluded, either on the behalf of a person claiming for a valuable or meritorious consideration or otherwise.

Idem.

(2) No disposition of land under this Act by a tenant in tail thereof in equity, and no consent by a protector of a settlement to such a disposition, shall be of any force unless such disposition or consent would have been, in case of an estate tail at law, before *The Administration of Justice Act of 1873*, an effectual disposition or consent within the meaning of this Act in a court of law. R.S.O. 1937, c. 156, s. 27.

When the Supreme Court may consent to a disposition by a tenant in tail.

28. Where the Supreme Court is the protector of a settlement, the court, while protector of the settlement, shall, on motion or petition in a summary way by a tenant in tail under such settlement, have full power to consent to a disposition, under this Act, by such tenant in tail, and the disposition to be made by such tenant in tail upon such motion or petition shall be such as may be approved of by the court, and the court may make such orders in the matter as may be thought necessary, and if the court, in lieu of any person is protector of a settlement, and there is another person protector of the same settlement jointly with such first mentioned person, the disposition by the tenant in tail, though approved of by the court, shall not be valid unless such other person, being protector, consents thereto in the manner in which the consent of the protector is, by this Act, required to be given. R.S.O. 1937, c. 156, s. 28.

Evidence.

29. Where the Supreme Court is the protector of a settlement, no document or instrument, as evidence of the consent of such protector to the disposition of a tenant in tail under such settlement, shall be requisite beyond the order in obedience to which the disposition is made. R.S.O. 1937, c. 156, s. 29.

Character of money subject to be invested in lands to be entailed.

30. Land to be sold, whether freehold or leasehold, or of any other tenure, where the money arising from the sale thereof is subject to be invested in the purchase of land to be settled so that any person, if the land were purchased, would have an estate tail therein, and also money subject to be invested in the purchase of land to be settled so that any person, if the land were purchased, would have an estate tail

therein, shall, for all the purposes of this Act, be treated as the land to be purchased, and be considered subject to the same estates as the land to be purchased would, if purchased, have been actually subject to, and all the previous sections in this Act, so far as circumstances will admit, shall, in the case of the land to be so sold, apply to such land in the same manner as if the land to be purchased with the money to arise from the sale were directed to be freehold, and were actually purchased and settled; and shall, in the case of money subject to be invested in the purchase of land to be so settled, apply to such money in the same manner as if such money were directed to be laid out in the purchase of freehold land, and such land were actually purchased and settled; except that, where under this section a disposition is to be made of leasehold land for years absolute or determinable, so circumstanced, or of money so circumstanced, such leasehold land or money shall, as to the person in whose favour or for whose benefit the disposition is made, be treated as personal estate, and the assurance by which the disposition of such leasehold land or money is effected shall be an assignment by deed which shall have no operation under this Act unless registered in the registry office of the registry division in which the land therein referred to lies within six months after the execution thereof. R.S.O. 1937, c. 156, s. 30.

CHAPTER 118

The Estreats Act

1.—(1) Unless otherwise provided, all fines and forfeited recognizances, the disposal of which is within the power of the Province, set, imposed, lost or forfeited, by or before the Supreme Court or a court of general sessions of the peace, shall, upon the adjournment of such court, be entered and extracted on a roll, by the registrar or clerk of the peace, as the case may be, or by some other person under the direction of a judge, which roll shall be made in duplicate and signed by the registrar or clerk or by the judge. ^{Entry of fines, etc.}

(2) The clerk or other person by whom the rolls are prepared shall, at the foot thereof, certify in the following form: ^{Affidavit by clerk.}

I, *A. B.*, (*describing his office*), do certify that this roll is truly and carefully made up and examined, and that all fines, issues, amerciaments, and forfeited recognizances, which were set, imposed, lost or forfeited, at or by the court therein mentioned, and which in right and due course of law ought to be levied and paid, are inserted in such roll; and that in the roll are also contained and expressed all such fines as have been paid to or received by me, either in court or otherwise, without any wilful error, omission, misnomer, or defect whatever. *A. B.*

R.S.O. 1937, c. 143, s. 1.

2.—(1) Subject to section 8, as soon as the rolls are prepared one shall, in the Supreme Court, be transmitted to the office of the Registrar of the Supreme Court at Osgoode Hall, and in the general sessions shall remain deposited in the office of the clerk of the peace, and in both cases the other, with a writ of execution and *capias* (Form 1) shall be transmitted to the sheriff of the county or district in and for which such court was held. ^{Transmission of copy of roll to Registrar of Supreme Court or clerk of the peace.}

(2) Where the writ is intended to be executed in any other county or district a certified copy of the roll, with a concurrent writ of execution and *capias* (Form 1) shall be transmitted to the sheriff of such county or district. ^{Idem.}

(3) A writ, if unexecuted, shall remain in force for three years and no longer, unless renewed in the manner provided in the case of other writs of execution. ^{Duration of writ.}

Alias.

(4) Where a recognizance is estreated, and has not been discharged or satisfied, the court may order the issue of a new or alias writ of execution and *capias*, notwithstanding that more than three years may have elapsed since the issue of the original writ. R.S.O. 1937, c. 143, s. 2.

Preparation of roll and issue of execution before adjournment of court.

3.—(1) At any time before the adjournment of the court the registrar or clerk shall at the request of the Crown attorney prepare and certify a roll dealing with any one or more forfeited recognizances or fines and issue a writ of execution and *capias* in respect thereof and such writ of execution and *capias* may be immediately placed in the hands of the sheriff for execution.

Note to be made on roll.

(2) In any such case the forfeiture or fine shall be mentioned in the roll and certificate required to be made up upon the adjournment of the court with an annotation of the issue of the certificate and execution and the execution then to be issued shall not apply thereto. R.S.O. 1937, c. 143, s. 3.

Mode of proceeding to levy fine, etc.

4. The sheriff shall proceed to the immediate levying and recovering of such fines, issues, amerciaments and forfeited recognizances on the goods and chattels, lands and tenements of the persons named in the roll, or to the taking into custody of the bodies of such persons in case sufficient goods and chattels, lands or tenements cannot be found whereof the sums required can be made, and every person so taken shall be lodged in the common jail of the county or district until satisfaction is made or until the court, upon cause shown by the party as hereinafter mentioned, makes an order in the case, and until the order has been fully complied with. R.S.O. 1937, c. 143, s. 4.

Estreat of recognizances to county court judges' criminal court and magistrates.

5.—(1) Where a person bound by a recognizance for his appearance, or for whose appearance any other person has become so bound, does not appear at the time and place required or during the time the judge of the county or district judges' criminal court or magistrate or justice of the peace has appointed, according to the terms of the recognizance, the judge or magistrate or justice shall within 48 hours after such failure to appear cause a record of the recognizance to be drawn up and shall sign the same and return it to the clerk of the peace for the county or district with a certificate on the back thereof signed by the judge, magistrate or justice stating that the person charged has not complied with the obligation contained in the recognizance.

Record of estreats at sessions.

(2) The clerk of the peace shall make a like record of estreat of every such recognizance as in the case of other

recognizances forfeited at the court of general sessions of the peace.

(3) The other provisions of this Act shall apply to every such recognizance. Application of other provisions.

(4) In the case of the forfeiture of a recognizance given by or on behalf of a person for his appearance before a magistrate or justice of the peace or before the judge of the county or district judges' criminal court or by or on behalf of a person appealing from a conviction or order made in the first instance or on appeal, if the court of general sessions of the peace is not in session at the time of such forfeiture the clerk of the peace shall prepare and certify a roll setting out the forfeited recognizance and lay the same before a judge of the county court in chambers, and the judge may thereupon by memorandum upon the roll order the estreating of such recognizance, and the clerk of the peace shall thereupon proceed as in other cases provided for by this Act. R.S.O. 1937, c. 143, s. 5. When recognizance forfeited while court not in session.

6. Where a person bound by recognizance for his appearance, or for whose appearance any other person has become so bound, to prosecute or give evidence in the case of an offence for the commission of which a fine or penalty is imposed which the Province is entitled to receive makes default, the officer of the court by whom the estreats are made out shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person or his surety was so bound, together with the residence, trade, profession or calling of every such person and surety, and shall in the list distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether, by reason of his non-appearance, the ends of justice have been defeated or delayed. R.S.O. 1937, c. 143, s. 6. Report by officer of the court.

7. Every officer before a recognizance is estreated shall lay the list before a judge of the court, who shall examine the list and make such order touching the estreating or putting in process the recognizance as appears just, and no officer of the court shall estreat or put in process a recognizance without the written order of the judge before whom the list has been laid. R.S.O. 1937, c. 143, s. 7. Estreat of recognizances, etc.

8.—(1) Except in the cases of persons bound by recognizance for their appearance, or for whose appearance any other person has become so bound, to prosecute or give Forbearance from estreat.

evidence, in every case of default whereby a recognizance has become forfeited, if the cause of absence is made known to the court, the court, on consideration of the cause, and considering also whether by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated, and with respect to all recognizances estreated and all fines imposed by any court for the non-attendance of a juror or constable, or of a public officer bound to attend at the court, if it appears to the satisfaction of the judge who presided thereat that the absence of the person for whose appearance a recognizance was entered into, or that the absence of a person fined for non-attendance was owing to circumstances which rendered his absence justifiable, the judge may make an order directing that the sum forfeited upon the estreated recognizance or the fine imposed shall not be levied.

Forbearance
from levying
fines, etc.

(2) The clerk before sending to the sheriff the roll, with the writ of execution and *capias*, shall submit the same to the judge for his revision, and the judge may make a minute on the roll and writ of any forfeited recognizances and fines which he thinks fit to direct not to be levied, and the sheriff shall observe the direction of the minute, and shall accordingly forbear to levy the forfeited recognizance or fine. R.S.O. 1937, c. 143, s. 8.

Procedure
where lands
are seized.

9. Where the sheriff takes land or tenements in execution, his duties and the practice and procedure as to the sale shall be the same as in other cases of execution against lands. R.S.O. 1937, c. 143, s. 9.

Conditions
upon which
a party in
custody of
the sheriff
may be
released.

10. If a person on whose goods and chattels a sheriff is authorized to levy a forfeited recognizance gives security to the sheriff for his appearance in the court into which the writ is returnable within 30 days after the giving of the security, or so soon thereafter as the court sits, then and there to abide the decision of the court, and also to pay the forfeited recognizance or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as may be adjudged and ordered by the court, such person shall be discharged out of custody, and if he does not appear in pursuance of his undertaking the court may forthwith issue a writ of execution and *capias* against the surety or sureties of the person so bound. R.S.O. 1937, c. 143, s. 10.

Discharge of
forfeited
recogniz-
ances, etc.

11. The court into which a writ of execution and *capias* is returnable may inquire into the circumstances of the case and may order the discharge of the whole of the forfeited recognizance, or sum paid or to be paid in lieu of satisfac-

tion thereof, and may make such order thereon as to the court appears just, and the order shall be a discharge to the sheriff or to the party, according to the circumstances of the case. R.S.O. 1937, c. 143, s. 11.

12. The sheriff to whom a writ is directed shall with his ^{Manner of return by} return state on the back of the roll attached to the writ ^{sheriff, etc.} what has been done in the execution thereof, and the return shall be filed in the proper office of the court into which it is made. R.S.O. 1937, c. 143, s. 12.

13. A copy of the roll and return, certified by the clerk ^{Certified return to} of the peace or by the local registrar of the Supreme Court, ^{Inspector of Legal Offices.} shall be forthwith transmitted to the Inspector of Legal Offices, with a minute thereon of any of the sums therein mentioned which have been remitted by order of the court, in whole or in part, or directed to be forborne under this Act. R.S.O. 1937, c. 143, s. 13.

14. The sheriff shall, without delay, pay over all money ^{Payment to} collected by him to the Treasurer of Ontario or other officer ^{Treasurer of Ontario} or person entitled to receive the same. R.S.O. 1937, c. 143, ^{or person entitled.} s. 14.

15. Subject to the approval of the Lieutenant-Governor ^{Rules.} in Council, the Rules Committee may make rules regulating the practice and procedure for the estreating of recognizances in the Supreme Court or in the court of general sessions of the peace. R.S.O. 1937, c. 143, s. 15; 1941, c. 55, s. 11.

16.—(1) This Act shall apply to any bond, recognizance ^{Recognizances to} or other security furnished under any statute of Ontario by ^{prosecute} or on behalf of any person for his appearance before a magis- ^{appeal from} trate or a justice or for the prosecution of any appeal in any ^{convictions,} matter or case punishable on summary conviction or in which ^{etc.} an appeal lies from a conviction or order made by a judge, magistrate or justice.

(2) Rules may be made for regulating the practice upon ^{Rules.} the estreating of any such bond, recognizance or other security by the same authority and in the same manner as under section 15. R.S.O. 1937, c. 143, s. 16.

FORM 1

WRIT OF EXECUTION AND CAPIAS

(Section 2)

GEORGE THE SIXTH, by the Grace of God, of Great Britain, Ireland,
and the British Dominions beyond the Seas, King, Defender of the
Faith.

To the Sheriff of, Greeting:

You are hereby commanded to levy of the good and chattels, lands
and tenements of each of the persons mentioned in the roll or extract
to this Writ annexed, all and singular the debts and sums of money upon
them severally imposed and charged as therein is specified; and if any
of the said several debts cannot be levied by reason that no goods or
chattels, lands or tenements can be found belonging to the said persons
respectively, then, and in all such cases, you are to take the bodies of
such persons and keep them safely in the jail of your county (*or* District),
there to abide the judgment of Our Supreme Court (*or* Court of General
Sessions of the Peace, *as the case may be*) upon any matter to be shown
by them respectively, or otherwise to remain in your custody as aforesaid
until such debt is satisfied, unless any of such persons respectively gives
sufficient security for his appearance at the said court within 30 days
after the giving of the security, or so soon thereafter as the court
sits, for which you will be held answerable; and what you do in the premises
make appear before Us in Our Supreme Court at Toronto (*or* at the next
Court of General Sessions of the Peace for the county (*or* district) of
.) immediately after the execution hereof and have
then and there this Writ.

Witness this day
of, 19

.
A.B.,
Registrar (*or* Clerk of the Peace *or as the case may be*) for the County
of

R.S.O. 1937, c. 143, Form A.

CHAPTER 119

The Evidence Act

1. In this Act,

Interpre-
tation.

- (a) "action" includes an issue, matter, arbitration, reference, investigation, inquiry, a prosecution for an offence committed against a statute of Ontario or against a by-law or regulation made under any such statute and any other proceeding authorized or permitted to be tried, heard, had or taken by or before a court under the law of Ontario;
- (b) "court" includes a judge, arbitrator, umpire, commissioner, magistrate, justice of the peace or other officer or person having by law or by consent of parties authority to hear, receive and examine evidence. R.S.O. 1937, c. 119, s. 1.

2. This Act shall apply to the evidence offered or taken orally or by interrogatories or affidavits or by the production of documents or things or otherwise by or before a court in an action, and in the case of oaths, affidavits, affirmations or declarations administered, sworn, affirmed or made under section 40, to any matter for which the administering, swearing, affirming or making of such oath, affidavit, affirmation or declaration is required or permitted by any statute of Ontario or under any rule made under the authority thereof or by any order, regulation or commission made or issued by the Lieutenant-Governor in Council under any law authorizing him to require the taking of evidence. R.S.O. 1937, c. 119, s. 2.

3. No person offered as a witness in an action shall be excluded, by reason of any alleged incapacity from crime or interest, from giving evidence. R.S.O. 1937, c. 119, s. 3.

Application
of Act.

Competency
of witnesses,
not in-
capacitated
by crime, etc.

4. Every person offered as a witness shall be admitted to give evidence notwithstanding that he has an interest in the matter in question or in the event of the action, and notwithstanding that he has been previously convicted of a crime or offence. R.S.O. 1937, c. 119, s. 4.

Admissi-
bility not-
withstanding
interest or
crime.

Evidence of parties.

5. The parties to an action, and the persons on whose behalf the same is brought, instituted, opposed or defended shall, except as hereinafter otherwise provided, be competent and compellable to give evidence on behalf of themselves or of any of the parties, and the husbands and wives of such parties and persons shall, except as hereinafter otherwise provided, be competent and compellable to give evidence on behalf of any of the parties. R.S.O. 1937, c. 119, s. 5.

Evidence of husband and wife.

6. Without limiting the generality of section 5, a husband or a wife may in any action, give evidence that he or she did or did not have sexual intercourse with the other party to the marriage at any time or within any period of time before or during the marriage. 1946, c. 25, s. 1.

Witness not excused from answering questions tending to criminate.

7.—(1) A witness shall not be excused from answering any question upon the ground that the answer may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person or to a prosecution under any Act of the Legislature.

Answer not to be used in evidence against him.

(2) If, with respect to any question, a witness objects to answer upon any of the grounds mentioned in subsection 1, and if, but for this section or any Act of the Parliament of Canada, he would therefore have been excused from answering such question, then, although the witness is by reason of this section or by reason of any Act of the Parliament of Canada compelled to answer, the answer so given shall not be used or receivable in evidence against him in any civil proceeding or in any proceeding under any Act of the Legislature. R.S.O. 1937, c. 119, s. 6.

Evidence in proceedings in consequence of adultery.

8. The parties to any proceeding instituted in consequence of adultery and the husbands and wives of such parties shall be competent to give evidence in such proceeding; provided that no witness in any proceeding whether a party to the suit or not, shall be liable to be asked or bound to answer any question tending to show that he or she is guilty of adultery unless such witness has already given evidence in the same proceeding in disproof of his or her alleged adultery. R.S.O. 1937, c. 119, s. 7.

Communications made during marriage.

9. A husband shall not be compellable to disclose any communication made to him by his wife during the marriage, nor shall a wife be compellable to disclose any communication made to her by her husband during the marriage. R.S.O. 1937, c. 119, s. 8.

Expert evidence.

10.^f Where it is intended by any party to examine as witnesses persons entitled, according to the law or practice, to

give opinion evidence, not more than three of such witnesses may be called upon either side without the leave of the judge or other person presiding, to be applied for before the examination of any of such witnesses. R.S.O. 1937, c. 119, s. 9.

11. The plaintiff in an action for breach of promise of marriage shall not recover unless his or her testimony is corroborated by some other material evidence in support of the promise. R.S.O. 1937, c. 119, s. 10. Corroborative evidence, breach of promise.

12. In an action by or against the heirs, next of kin, executors, administrators or assigns of a deceased person, an opposite or interested party shall not obtain a verdict, judgment or decision on his own evidence in respect of any matter occurring before the death of the deceased person, unless such evidence is corroborated by some other material evidence. R.S.O. 1937, c. 119, s. 11. Actions by or against heirs, etc.

13. In an action by or against a mentally incompetent person so found, or a patient in a mental hospital, or a person who from unsoundness of mind is incapable of giving evidence, an opposite or interested party shall not obtain a verdict, judgment or decision on his own evidence, unless such evidence is corroborated by some other material evidence. R.S.O. 1937, c. 119, s. 12. Actions by or against persons under disability.

14. Where an oath may be lawfully taken, it may be administered to any person while such person holds in his hand a copy of the Old or New Testament without requiring him to kiss the same, or, when he objects to being sworn in this manner or declares that the oath so administered is not binding upon his conscience, then in such manner and form and with such ceremonies as he may declare to be binding. R.S.O. 1937, c. 119, s. 13. Mode of administering oath.

15.—(1) Where any person objects to be sworn from conscientious scruples, or on the ground of his religious belief, or on the ground that the taking of an oath would have no binding effect on his conscience, such person may in lieu of taking an oath make an affirmation and declaration which shall be of the same force and effect as if such person had taken an oath in the usual form. Affirmation in lieu of oath.

(2) Where the evidence is in the form of an affidavit or written deposition, the person before whom the same is taken shall certify that the deponent satisfied him that he was a person entitled to affirm. R.S.O. 1937, c. 119, s. 14. Certifying affirmation.

16. A witness served in due time with a subpoena issued out of any court in Ontario, and paid his proper witness fees Attendance of witnesses.

and conduct money, who makes default in obeying such subpoena, without any lawful and reasonable impediment, shall, in addition to any penalty he may incur as for a contempt of court, be liable to an action on the part of the person by whom, or on whose behalf, he has been subpoenaed for any damage which such person may sustain or be put to by reason of such default. R.S.O. 1937, c. 119, s. 15.

ISSUE OF SUBPOENAS INTO ANY PART OF ONTARIO OR QUEBEC

[Sections 4-11 and 13 of C.S.C., c. 79, which were taken from 18 Vict., c. 9, ss. 1-4, 6, 7, are not consolidated in the Revised Statutes of Canada, and are as follows:]

Courts may
issue sub-
poenas to
any part of
Canada.

4. If in any action or suit depending in any of Her Majesty's Superior Courts of Law or Equity in Canada, it appears to the Court, or when not sitting, it appears to any Judge of the Court that it is proper to compel the personal attendance at any trial or *enquête* or examination of witnesses, of any person who may not be within the jurisdiction of the Court in which the action or suit is pending, the Court or Judge, in their or his discretion, may order that a writ called a writ of *subpoena ad testificandum* or of *subpoena duces tecum* shall issue in special form, commanding such person to attend as a witness at such trial or *enquête* or examination of witnesses wherever he may be in Canada.

Service
thereof in
any part of
Canada to
be good.

5. The service of any such writ or process in any part of Canada, shall be valid and effectual to all intents and purposes, as if the same had been served within the jurisdiction of the Court from which it has issued, according to the practice of such Court.

When not to
be issued.

6. No such writ shall be issued in any case in which an action is pending for the same cause of action, in that section of the Province, whether Upper or Lower Canada respectively, within which such witness or witnesses may reside.

Writs to be
specially
noted.

7. Every such writ shall have at the foot, or in the margin thereof, a statement or notice that the same is issued by the special order of the Court or Judge making such order, and no such writ shall issue without such special order.

Conse-
quences of
disobedience.

8. In case any person so served does not appear according to the exigency of such writ or process, the Court out of which the same issued, may, upon proof made of the service thereof, and of such default to the satisfaction of such Court, transmit a certificate of such default, under the seal of the same Court, to any of Her Majesty's Superior Courts of Law or Equity in that part of Canada in which the person so served may reside, being out of the jurisdiction of the Court transmitting such certificate, and the Court to which such certificate is sent, shall thereupon proceed against and punish such person so having made default, in like manner as they might have done if such person had neglected or refused to appear to a writ of subpoena or other similar process issued out of such last mentioned Court.

If expenses
paid or
tendered.

9. No such certificate of default shall be transmitted by any Court, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such subpoena or other similar process, unless it be made to appear to the Court transmitting and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate *per diem* and per mile allowed to witnesses by the law and practice of the Superior Court of Law within the jurisdiction of which such person was found, to defray the expenses of coming and attending to give evidence and of

returning from giving evidence, had been tendered to such person at the time when the writ of subpoena, or other similar process was served upon him.

10. The service of such writs of subpoena or other similar process, in Lower Canada, shall be proved by the certificate of a Bailiff within the jurisdiction where the service has been made, under his oath of office, and such service in Upper Canada by the affidavit of service endorsed on or annexed to such writ by the person who served the same.

11. The costs of the attendance of any such witness shall not be taxed against the adverse party to such suit, beyond the amount that would have been allowed on a commission *rogatoire*, or to examine witnesses unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, so orders.

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13. Nothing herein contained shall affect the power of any Court to issue a commission for the examination of witnesses out of its jurisdiction, nor affect the admissibility of any evidence at any trial or proceeding, where such evidence is now by law receivable, on the ground of any witness being beyond the jurisdiction of the Court.

17. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the matter in question, without the writing being shown to him; but if it is intended to contradict him by the writing, his attention shall, before such contradictory proof is given, be called to those parts of the writing which are to be used for the purpose of so contradicting him, and the judge or other person presiding at any time during the trial or proceeding may require the production of the writing for his inspection, and may thereupon make such use of it for the purposes of the trial or proceeding as he may think fit. R.S.O. 1937, c. 119, s. 16.

18. If a witness upon cross-examination as to a former statement made by him relative to the matter in question and inconsistent with his present testimony does not distinctly admit that he did make such statement, proof may be given that he did in fact make it; but before such proof is given the circumstances of the supposed statement sufficient to designate the particular occasion shall be mentioned to the witness, and he shall be asked whether or not he did make such statement. R.S.O. 1937, c. 119, s. 17.

19.—(1) A witness may be asked whether he has been convicted of any crime, and upon being so asked, if he either denies the fact or refuses to answer, the conviction may be proved, and a certificate containing the substance and effect only, omitting the formal part, of the charge and of the conviction, purporting to be signed by the officer having the custody of the records of the court at which the offender was convicted, or by the deputy of the officer, shall, upon proof of the identity of the witness as such convict, be sufficient evidence of the conviction, without proof of the signature or

How service proved.
Costs of attendance provided for.
Power to issue commissions to examine witnesses, preserved.

Examination of witnesses, proof of contradictory written statements.

Proof of contradictory oral statements.

Proof of previous conviction of a witness.

of the official character of the person appearing to have signed the certificate.

Fee.

(2) For such certificate a fee of \$1 and no more may be demanded or taken. R.S.O. 1937, c. 119, s. 18.

How far a party may discredit his own witness.

20. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may contradict him by other evidence, or if the witness in the opinion of the judge or other person presiding proves adverse such party may by leave of the judge or other person presiding prove that the witness made at some other time a statement inconsistent with his present testimony, but before such last mentioned proof is given the circumstances of the proposed statement sufficient to designate the particular occasion shall be mentioned to the witness and he shall be asked whether or not he did make such statement. R.S.O. 1937, c. 119, s. 19.

Letters patent.

21. Letters patent under the Great Seal of the United Kingdom, or of any other of His Majesty's dominions, may be proved by the production of an exemplification thereof, or of the enrolment thereof, under the Great Seal under which the same may have issued, and such exemplification shall have the like force and effect for all purposes as the letters patent thereby exemplified, as well against His Majesty as against all other persons whomsoever. R.S.O. 1937, c. 119, s. 20.

Copies of statutes, etc.

22. Copies of statutes, official gazettes, ordinances, regulations, proclamations, journals, orders, appointments to office, notices thereof and other public documents purporting to be printed by or under the authority of the Parliament of the United Kingdom, or of the Imperial Government or by or under the authority of the government or of any legislative body of any dominion, commonwealth, state, province, colony, territory or possession within the King's dominions, shall be admitted in evidence to prove the contents thereof. R.S.O. 1937, c. 119, s. 21.

Proclamations, orders, etc.

23. *Prima facie* evidence of a proclamation, order, regulation or appointment to office made or issued,

- (a) by the Governor-General or the Governor-General in Council, or other chief executive officer or administrator of the Government of Canada; or
- (b) by or under the authority of any minister or head of any department of the Government of Canada or of a provincial or territorial government in Canada; or

- (c) by a Lieutenant-Governor or Lieutenant-Governor in Council or other chief executive officer or administrator of Ontario or of any other province or territory in Canada,

may be given by the production of,

- (d) a copy of the *Canada Gazette* or of the official gazette for any province or territory purporting to contain a notice of such proclamation, order, regulation or appointment; or
- (e) a copy of such proclamation, order, regulation or appointment purporting to be printed by the King's Printer or by the government printer for the province or territory; or
- (f) a copy of or extract from such proclamation, order, regulation or appointment purporting to be certified to be a true copy by such minister or head of a department or by the clerk, or assistant or acting clerk of the executive council or by the head of any department of the Government of Canada or of a provincial or territorial government or by his deputy or acting deputy. R.S.O. 1937, c. 119, s. 22.

24. An order in writing purporting to be signed by the Secretary of State of Canada and to be written by command of the Governor-General shall be received in evidence as the order of the Governor-General and an order in writing purporting to be signed by the Provincial Secretary and to be written by command of the Lieutenant-Governor shall be received in evidence as the order of the Lieutenant-Governor. R.S.O. 1937, c. 119, s. 23.

Orders signed by Secretary of State or Provincial Secretary.

25. Copies of proclamations and of official and other documents, notices and advertisements printed in the *Canada Gazette*, or in *The Ontario Gazette*, or in the official gazette of any province or territory in Canada shall be *prima facie* evidence of the originals and of the contents thereof. R.S.O. 1937, c. 119, s. 24.

Notices in Gazette.

26. Where the original record could be received in evidence, a copy of any official or public document in Ontario, purporting to be certified under the hand of the proper officer, or the person in whose custody such official or public document is placed, or of a document, by-law, rule, regulation or proceeding, or of any entry in any register or other book of any

Public or official documents.

corporation, created by charter or statute in Ontario, purporting to be certified under the seal of the corporation and the hand of the presiding officer or secretary thereof, shall be receivable in evidence without proof of the seal of the corporation, or of the signature of the official character of the person or persons appearing to have signed the same, and without further proof thereof. R.S.O. 1937, c. 119, s. 25.

Privilege in case of official documents.

27. Where a document is in the official possession, custody or power of a member of the Executive Council, or of the head of a department of the public service of Ontario, if the deputy head or other officer of the department has the document in his personal possession, and is called as a witness, he shall be entitled, acting herein by the direction and on behalf of such member of the Executive Council or head of the department, to object to produce the document on the ground that it is privileged, and such objection may be taken by him in the same manner, and shall have the same effect, as if such member of the Executive Council or head of the department were personally present and made the objection. R.S.O. 1937, c. 119, s. 26.

Entries in departmental books.

28. A copy of an entry in any book of account kept in any department of the Government of Canada or of Ontario shall be received as *prima facie* evidence of such entry, and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of such department that such book was, at the time of the making of the entry, one of the ordinary books kept in such department, that the entry was apparently, and as the deponent believes, made in the usual and ordinary course of business of such department, and that such copy is a true copy thereof. R.S.O. 1937, c. 119, s. 27.

Copies of public books or documents.

29.—(1) Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, a copy thereof or extract therefrom shall be admissible in evidence if it is proved that it is an examined copy or extract, or that it purports to be signed and certified as a true copy or extract by the officer to whose custody the original has been entrusted.

Copies to be delivered if required.

(2) Such officer shall furnish the certified copy or extract to any person applying for the same at a reasonable time, upon his paying therefor a sum not exceeding 10 cents for every folio of 100 words. R.S.O. 1937, c. 119, s. 28.

Interpretation.
1944-45,
c. 30 (Can.).
Rev. Stat.,
c. 11.

30.—(1) In this section, "bank" means a bank to which the *Bank Act* (Canada) applies and includes every branch, agency or office of a bank and an office opened under *The Agricultural Development Finance Act* in any part of Ontario.

(2) Subject to this section a copy of an entry in a book or record kept in a bank shall in any action to which the bank is not a party be received as *prima facie* evidence of such entry and of the matters, transactions and accounts therein recorded.

Copies of entries in books as *prima facie* evidence.

(3) A copy of an entry in such book or record shall not be received in evidence under this section unless it is first proved that the book or record was at the time of making the entry one of the ordinary books or records of the bank, that the entry was made in the usual and ordinary course of business, that the book of record is in the custody or control of the bank, or its successor, and that such copy is a true copy thereof, and such proof may be given by the manager or accountant, or a former manager of the bank or its successor and may be given orally or by affidavit.

Proof required as to entry in ordinary course of business.

(4) A bank or officer of a bank shall not in an action to which the bank is not a party be compellable to produce any book or record the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court or a judge made for special cause.

Production of books to be required only under order.

(5) On the application of any party to an action the court or judge may order that such party be at liberty to inspect and take copies of any entries in the books or records of a bank for the purposes of such proceeding, but a person whose account is to be inspected shall be served with notice of the application at least two clear days before the hearing thereof, and if it is shown to the satisfaction of the court or judge that such person cannot be notified personally such notice may be given by addressing the same to the bank.

Inspection of account.

(6) The costs of any application to a court or judge under or for the purposes of this section, and the costs of anything done or to be done under an order of a court or judge made under or for the purposes of this section, shall be in the discretion of the court or judge who may order the same or any part thereof to be paid to any party by the bank, where the same have been occasioned by any default or delay on the part of the bank, and any such order against a bank may be enforced as if the bank was a party to the proceeding. R.S.O. 1937, c. 119, s. 29.

Costs.

31.—(1) In this section,

(a) “person” includes,

Interpretation.

- (i) the governments of Canada and of any province of Canada and any department, commission, board or branch of any such governments,
 - (ii) a corporation, its successors and assigns, and
 - (iii) the heirs, executors, administrators or other legal representatives of a person; and
- (b) "photographic film" includes any photographic plate, microphotographic film and photostatic negative and "photograph" has a corresponding meaning.

Admissible
in evidence.

(2) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement, document, plan or a record or book or entry therein kept or held by any person,

- (a) is photographed in the course of an established practice of such person of photographing objects of the same or a similar class in order to keep a permanent record thereof; and
- (b) is destroyed by or in the presence of the person or of one or more of his employees or delivered to another person in the ordinary course of business or lost,

a print from the photographic film shall be admissible in evidence in all cases and for all purposes for which the object photographed would have been admissible.

Court may
refuse to
admit in
evidence.

(3) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement or other executed or signed document was so destroyed before the expiration of six years from,

- (a) the date when in the ordinary course of business either the object or the matter to which it related ceased to be treated as current by the person having custody or control of the object; or
- (b) the date of receipt by the person having custody or control of the object of notice in writing of any claim in respect of the object or matter prior to the destruction of the object,

whichever is the later date, the court may refuse to admit in evidence under this section a print from a photographic film of the object.

(4) Where the photographic print is tendered by a government or the Bank of Canada, subsection 3 shall not apply. Exception as to application of subs. 3.

(5) Proof of compliance with the conditions prescribed by this section may be given by any person having knowledge of the facts either orally or by affidavit sworn before a notary public and unless the court otherwise orders, a notarial copy of any such affidavit shall be admissible in evidence in lieu of the original affidavit. 1945, c. 7, s. 1. Proof of compliance with conditions.

32.—(1) All courts, judges, justices, masters, clerks of courts, commissioners and other officers acting judicially shall take judicial notice of the signature of any of the judges of any court in Canada, in Ontario and in every other province and territory in Canada, where such signature is appended or attached to any decree, order, certificate, affidavit, or judicial or official document. Judicial notice to be taken of signatures of judges, etc.

(2) The members of the Board of Transport Commissioners of Canada and of the Ontario Municipal Board, the judge of the Mining Court and a referee appointed under *The Municipal Drainage Act* shall be deemed judges for the purposes of this section. R.S.O. 1937, c. 119, s. 30. Who to be deemed "judges." Rev. Stat., c. 246.

33. No proof shall be required of the handwriting or official position of any person certifying to the truth of any copy of or extract from any proclamation, order, regulation or appointment, or to any matter or thing as to which he is by law authorized or required to certify. R.S.O. 1937, c. 119, s. 31. Proof of handwriting, when not required.

34. A judgment, decree or other judicial proceeding recovered, made, had or taken in the Supreme Court of Judicature or in any court of record in England or Ireland or in any of the superior courts of law, equity or bankruptcy in Scotland, or in any court of record in Canada, or in any of the provinces or territories in Canada, or in any British colony or possession, or in any court of record of the United States, or of any state of the United States of America, may be proved by an exemplification of the same under the seal of the court without any proof of the authenticity of such seal or other proof whatever, in the same manner as a judgment, decree or other judicial proceeding of the Supreme Court in Ontario may be proved by an exemplification thereof. R.S.O. 1937, c. 119, s. 32. Foreign judgments, etc., how proved.

35. A copy of a notarial act or instrument in writing made in Quebec before a notary and filed, enrolled or enregistered Copies of notarial acts in Quebec admissible.

by such notary, certified by a notary or prothonotary to be a true copy of the original thereby certified to be in his possession as such notary or prothonotary, shall be receivable in evidence in the place and stead of the original, and shall have the same force and effect as the original would have if produced and proved. R.S.O. 1937, c. 119, s. 33.

How
impeached.

36. The proof of such certified copy may be rebutted or set aside by proof that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may, by the law of Quebec, be taken before a notary, or be filed, enrolled or enregistered by a notary. R.S.O. 1937, c. 119, s. 34.

Protests
of bills
and notes.

37. A protest of a bill of exchange or promissory note purporting to be under the hand of a notary public wherever made shall be received as *prima facie* evidence of the allegations and facts therein stated. R.S.O. 1937, c. 119, s. 35.

Effect of
certain
certificates
of notaries.

38. Any note, memorandum or certificate purporting to be made by a notary public in Canada, in his own handwriting or to be signed by him at the foot of or embodied in any protest, or in a regular register of official acts purporting to be kept by him shall be *prima facie* evidence of the fact of notice of non-acceptance or non-payment of a bill of exchange or promissory note having been sent or delivered, at the time and in the manner stated in such note, certificate or memorandum. R.S.O. 1937, c. 119, s. 36.

Proving
titles under
division
court
executions.

39. In proving a title under a sheriff's conveyance based upon an execution issued from a division court it shall be sufficient to prove the judgment recovered in the division court without proof of any prior proceedings. R.S.O. 1937, c. 119, s. 37.

Function-
aries taking
affidavits.

40. Oaths, affidavits, affirmations or declarations administered, sworn, affirmed or made out of Ontario,

- (a) in England or Northern Ireland before a commissioner authorized to administer oaths in the Supreme Court of Judicature;
- (b) in England or Northern Ireland before a judge of the Supreme Court of Judicature;
- (c) in Scotland before a judge of the Court of Session or the Justiciary Court of Scotland;

- (*d*) in England, Scotland or Northern Ireland before a judge of a county court within his county;
- (*e*) in the Republic of Ireland before a commissioner authorized to administer oaths in the courts of justice of the Republic of Ireland, or before a judge of the Supreme Court of Justice of the Republic of Ireland, or before a judge of the High Court of Justice of the Republic of Ireland, or before a judge of the Circuit Court of Justice of the Republic of Ireland within his circuit;
- (*f*) In Great Britain or Northern Ireland or in the Republic of Ireland, or in any dominion or colony of His Majesty, or in any foreign country before the mayor or chief magistrate of any city, borough or town corporate, certified under the common seal of such city, borough or town corporate;
- (*g*) in any colony belonging to the Crown of Great Britain or any dependency thereof, or in any foreign country, before a judge of any court of record of supreme jurisdiction;
- (*h*) in the British possessions in India, before any magistrate or collector certified to have been such under the hand of the governor of such possession;
- (*i*) in Quebec, before a judge or prothonotary of the Superior Court or clerk of the Circuit Court;
- (*j*) in any foreign place, before any consul, vice-consul, or consular agent of His Majesty exercising his functions;
- (*k*) before a notary public and certified under his hand and official seal;
- (*l*) before a commissioner authorized by the laws of Ontario to take affidavits;
- (*m*) before a commissioner authorized to take affidavits in Ontario or a notary public of Ontario; or
- (*n*) in any province of Canada before a commissioner authorized to administer oaths in the courts of such province or by a notary public or a justice of the peace having authority or jurisdiction in the place where the oath is administered,

shall be as valid and effectual and shall be of like force and effect to all intents and purposes as if such oath, affidavit, affirmation or declaration had been administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits therein, or other competent authority of the like nature. R.S.O. 1937, c. 119, s. 38.

Proof of signature and seal dispensed with.

41. Any document purporting to have affixed, impressed or subscribed thereon or thereto the signature of such judge or commissioner, or the signature and official seal of such notary public, or prothonotary, or the seal of the corporation and the signature of such mayor or chief magistrate or governor as aforesaid, or the seal and signature of such consul, vice-consul or consular agent in testimony of such oath, affidavit, affirmation or declaration having been administered, sworn, affirmed or made by or before him, or for any other purpose authorized by this Act, shall be admitted in evidence without proof of such signature, or seal and signature, being the signature or the seal and signature of the person whose signature or seal and signature the same purport to be, or of the official character of such person. R.S.O. 1937, c. 119, s. 39.

Formal defects, when not to vitiate.

Rev. Stat., c. 57.

42. No informality in the heading or other formal requisites to any affidavit, declaration or affirmation made or taken before a commissioner or other person authorized to take affidavits under *The Commissioners for taking Affidavits Act* or under this Act, shall be any objection to its reception in evidence if the court or judge before whom it is tendered thinks proper to receive it. R.S.O. 1937, c. 119, s. 40.

Admissibility of copies of depositions.

43. Where an examination or deposition of a party or witness has been taken before a judge or other officer or person appointed to take the same, copies of the examination or deposition certified under the hand of the judge, officer or other person taking the same, shall, without proof of the signature, be received and read in evidence, saving all just exceptions. R.S.O. 1937, c. 119, s. 41.

Effect of probate, etc., as evidence of will, etc.

44. In order to establish a devise or other testamentary disposition of or affecting real estate, probate of the will or letters of administration with the will annexed containing such devise or disposition, or a copy thereof, under the seal of the surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada, shall be *prima facie* evidence of the will, and of its validity and contents. R.S.O. 1937, c. 119, s. 42.

45. Where a person dies in any of His Majesty's possessions out of Ontario having made a will sufficient to pass real estate in Ontario, purporting to devise, charge or affect real estate in Ontario, the party desiring to establish any such disposition, after giving one month's notice to the opposite party to the proceeding of his intention so to do, may produce and file the probate of the will or letters of administration with the will annexed or a certified copy thereof under the seal of the court which granted the same with a certificate of the judge, registrar or clerk of such court that the original will is filed and remains in the court and purports to have been executed before two witnesses, and such probate or letters of administration or certified copy with such certificate shall, unless the court otherwise orders, be *prima facie* evidence of the will and of its validity and contents. R.S.O. 1937, c. 119, s. 43.

Proof in the case of will of real estate filed in courts outside Ontario.

46. The production of the certificate mentioned in section 45 shall be sufficient *prima facie* evidence of the facts therein stated and of the authority of the judge, registrar or clerk, without proof of his appointment, authority or signature. R.S.O. 1937, c. 119, s. 44.

Effect of certificate.

47. The production of a certificate in writing signed or purporting to be signed,

Military records.

- (a) by the Adjutant-General, Deputy Adjutant-General, or officer in charge of records, Militia Service, Department of National Defence, in the case of a member of His Majesty's military forces; or
- (b) by the Naval Secretary, Naval Service, Department of National Defence, in the case of a member of His Majesty's naval forces; or
- (c) by the officer in charge of records, Air Service, Department of National Defence, in the case of a member of His Majesty's air forces; or
- (d) by an officer of His Majesty's naval, military or air forces, authorized so to sign, in the case of a member of any of His Majesty's forces,

stating that the person named in the certificate was a member of any of His Majesty's forces, and that he has been officially reported as dead or presumed to be dead, if it appears on the face of the certificate that the person signing is qualified as prescribed in clause *a*, *b*, *c*, or *d*, as the case may be, shall be sufficient proof of the death of such person and of all facts

stated in the certificate for any purpose to which the authority of this Legislature extends, and also of the office, authority and signature of the person giving or making the certificate, without any proof of his appointment, authority or signature. 1942, c. 15, s. 2.

Interpre-
tation.

48. The word "instrument" in sections 49 and 50 has the meaning assigned to that word in section 1 of *The Registry Act*. R.S.O. 1937, c. 119, s. 46.

Rev. Stat.,
c. 336.

Registered
instrument
as evidence.

49. A copy of an instrument or memorial certified under the hand and seal of office of the registrar, master of titles or local master of titles, in whose office the same is deposited, filed, kept or registered, to be a true copy shall be *prima facie* evidence of the original, except in the cases provided for in section 50. R.S.O. 1937, c. 119, s. 47.

When cer-
tified copies
of registered
instruments
may be used.

50. Where it would be necessary to produce and prove an instrument or memorial which has been so deposited, filed, kept or registered in order to establish such instrument or memorial and the contents thereof, the party intending to prove the same may give notice to the opposite party 10 days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence, as proof of the instrument or memorial, a copy thereof certified by the registrar, master of titles or local master of titles, under his hand and seal of office, and in every such case the copy so certified shall be sufficient evidence of the instrument or memorial and of its validity and contents unless the party receiving the notice, within four days after such receipt, gives notice that he disputes its validity, in which case the costs of producing and proving it may be ordered to be paid by any or either of the parties as may be deemed just. R.S.O. 1937, c. 119, s. 48.

Filing copies
of official
documents.

51.—(1) Where a public officer produces upon a subpoena an original document, it shall not be deposited in court unless otherwise ordered, but if the document or a copy is needed for subsequent reference or use, a copy thereof or of so much thereof as may be deemed necessary, certified under the hand of the officer producing the document or otherwise proved, shall be filed as an exhibit in the place of the original, and the officer shall be entitled to receive in addition to his ordinary fees, the fees for any certified copy, to be paid to him before it is delivered or filed.

When
original to
be retained.

(2) Where an order is made that the original be retained, the order shall be delivered to the public officer and the exhibit

shall be retained in court and filed. R.S.O. 1937, c. 119, s. 49.

52.—(1) A party intending to prove the original of a telegram, letter, shipping bill, bill of lading, delivery order, receipt, account or other written instrument used in business or other transactions, may give notice to the opposite party, 10 days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends to give in evidence as proof of the contents a writing purporting to be a copy of the documents, and in the notice shall name some convenient time and place for the inspection thereof.

Proof of certain written instruments.

(2) Such copy may then be inspected by the opposite party, and shall without further proof be sufficient evidence of the contents of the original document, and be accepted and taken in lieu of the original, unless the party receiving the notice within four days after the time mentioned for such inspection gives notice that he intends to dispute the correctness or genuineness of the copy at the trial or proceeding, and to require proof of the original, and the costs attending any production or proof of the original document shall be in the discretion of the court. R.S.O. 1937, c. 119, s. 50.

Inspection.

53. It shall not be necessary to prove, by the attesting witness, an instrument to the validity of which attestation is not requisite. R.S.O. 1937, c. 119, s. 51.

Where no attestation is required.

54. Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine, shall be permitted to be made by a witness, and such writings and the evidence of witnesses respecting the same may be submitted to the court or jury as evidence of the genuineness or otherwise of the writing in dispute. R.S.O. 1937, c. 119, s. 52.

Comparison of disputed writing with genuine.

55. Where a document is received in evidence, the court admitting the same may direct that it be impounded and kept in such custody for such period and subject to such conditions as may seem proper, or until the further order of the court or of the Supreme Court or of a judge thereof or of a county or district court, as the case may be. R.S.O. 1937, c. 119, s. 53.

When instruments offered in evidence may be impounded.

56. It shall not be necessary in any action to produce any evidence which, by section 1 of *The Vendors and Purchasers Act*, is dispensed with as between vendor and purchaser, and the evidence declared to be sufficient as between vendor and purchaser shall be *prima facie* sufficient for the purposes of the action. R.S.O. 1937, c. 119, s. 54.

Evidence dispensed with under Rev. Stat., c. 407.

Evidence
for foreign
tribunals.

57.—(1) Where it is made to appear to the Supreme Court or a judge thereof, or to a judge of a county or district court, that any court or tribunal of competent jurisdiction in a foreign country has duly authorized, by commission, order or other process, the obtaining of the testimony in or in relation to any action, suit or proceeding pending in or before such foreign court or tribunal, of a witness out of the jurisdiction thereof and within the jurisdiction of the court or judge so applied to, such court or judge may order the examination of such witness before the person appointed, and in the manner and form directed by the commission, order or other process, and may, by the same or by a subsequent order, command the attendance of any person named therein for the purpose of being examined, or the production of any writing or other document or thing mentioned in the order, and may give all such directions as to the time and place of the examination, and all other matters connected therewith as may seem proper, and the order may be enforced, and any disobedience thereto punished, in like manner as in case of an order made by the same court or judge in an action pending in such court or before such judge.

Payment of
expenses of
witness.

(2) A person whose attendance is so ordered shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in the Supreme Court.

Right of
refusal to
answer
questions
and to
produce
documents.

(3) A person examined under such commission, order or other process shall have the like right to object to answer questions tending to criminate himself, and to refuse to answer any questions which, in an action pending in the court by which or by a judge whereof or before the judge by whom the order for examination was made, the witness would be entitled to object or to refuse to answer, and no person shall be compelled to produce at the examination any writing, document or thing which he would not be compellable to produce at the trial of such an action.

Administra-
tion of oath.

(4) Where the commission, order or other process or the instructions of the court accompanying the same, direct that the person to be examined shall be sworn or shall affirm, the person so appointed shall have authority to administer the oath to him or take his affirmation. R.S.O. 1937, c. 119, s. 55.

CHAPTER 120

The Execution Act

1. In this Act,

Interpre-
tation.

- (a) "execution" includes a writ of *feri facias* and every subsequent writ for giving effect thereto;
- (b) "sheriff" includes any officer to whom an execution is directed. R.S.O. 1937, c. 125, s. 1.

2. The following chattels shall be exempt from seizure under any writ issued out of any court:

Chattels
exempt
from
seizure.

- (a) the household furniture, utensils and equipment that are contained in and form part of the permanent home of the debtor, provided that this clause shall not apply to furniture, utensils or equipment purchased for defeating the claims of creditors, and provided further that in the case of a writ issued upon a judgment given upon a claim for clothing, food, fuel or shelter supplied for the debtor or his family the exemption under this clause shall be limited to household furniture, utensils and equipment not exceeding in value \$200;
- (b) the necessary and ordinary wearing apparel of the debtor and his family;
- (c) in the case of a debtor other than a person engaged in the tillage of the soil or farming, such food as the debtor actually has in his possession for the purposes of consumption by himself and his family, and in the case of a person engaged in the tillage of the soil or farming, such food as is necessary for consumption by himself and his family until the next harvest whether such food is in consumable state or requires to be milled, slaughtered or otherwise processed;
- (d) such fuel as is within the debtor's home;
- (e) live stock, fowl, bees, books, tools and implements and other chattels necessary to and actually in use by the debtor in his business, profession or calling, to the extent of \$600;

- (f) in the case of a person engaged solely in farming or the tillage of the soil, sufficient seed to seed all his land under cultivation, not exceeding 100 acres, as selected by the debtor and 14 bushels of potatoes, and where seizure is made between the 1st day of October and the 30th day of April, such food and bedding as is necessary to feed and bed the live stock and fowl which are exempt under this section until the 30th day of April next following. 1942, c. 16, s. 1.

Right of debtor to part proceeds of sale of implements.

3. The debtor may, in lieu of the chattels referred to in clause *e* of section 2, elect to receive the proceeds of the sale thereof up to \$600, in which case the officer executing the writ shall pay the net proceeds of the sale if the same do not exceed \$600, or if the same exceed \$600, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under clause *e*. 1942, c. 16, s. 2.

Money derived from sale of exempted goods.

4. The sum to which a debtor is entitled under clause *e* of section 2 or under section 3 shall be exempt from attachment or seizure at the instance of a creditor. R.S.O. 1937, c. 125, s. 4; 1942, c. 16, s. 3.

Disposal of exempted goods after death of the debtor.

5. Chattels exempt from seizure shall, after the death of the debtor, be exempt from the claims of his creditors, and his widow shall be entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor shall be entitled to them. R.S.O. 1937, c. 125, s. 5.

Right of selection.

6. The debtor, his widow or family, or, in the case of infants, their guardian, may select out of any larger number the chattels exempt from seizure. R.S.O. 1937, c. 125, s. 6.

Beds and wearing apparel exempt.

7. Nothing herein shall exempt any article including fuel, except beds, bedding and bedsteads (including cradles) in ordinary use by the debtor and his family and the necessary and ordinary wearing apparel of the debtor and his family, from seizure to satisfy a debt contracted for such article. 1942, c. 16, s. 4.

Sheriff may sell any lands of execution debtor.

8. The sheriff to whom a writ of execution against lands is delivered for execution may seize and sell thereunder the lands of the execution debtor, including any lands whereof any other person is seized or possessed in trust for the execution debtor. R.S.O. 1937, c. 125, s. 8.

9.—(1) Subject to the provisions of *The Land Titles Act*, a writ of execution shall bind the goods and lands against which it is issued from the time of the delivery thereof to the sheriff for execution, but save as to bills of sale and chattel mortgages, no writ of execution against goods shall prejudice the title to such goods acquired by any person in good faith and for valuable consideration unless such person had, at the time when he acquired his title, notice that such writ or any other writ by virtue of which the goods of the execution debtor might be seized or attached has been delivered to the sheriff and remains in his hands unexecuted.

Writs
against
lands and
goods.
Rev. Stat.,
c. 197.

(2) The sheriff shall, upon the receipt of the writ and without fee, endorse thereon the day of the year, the month, the hour and the minute when the same was received.

Endorse-
ment.

(3) Subsection 1 shall not apply to an execution against goods issued out of a division court, which shall bind only from the time of the seizure. R.S.O. 1937, c. 125, s. 9.

Execution
issued out
of division
court.

10. Subject to *The Judicature Act* and rules of court, land and other hereditaments and real estate belonging to any person indebted, shall be liable to and chargeable with all just debts, duties and demands of whatsoever nature or kind, owing by any such person to His Majesty or to any of his subjects, and shall be subject to the like remedies, proceedings and process for seizing, selling or disposing of the same towards the satisfaction of such debts, duties and demands, and in like manner as personal estate is seized, sold or disposed of. R.S.O. 1937, c. 125, s. 10.

Liability of
land to
execution.
Rev. Stat.,
c. 190.

11. Shares and dividends, and any equitable or other right, property, interest or equity of redemption in or in respect of shares or dividends in an incorporated bank or an incorporated company having transferable shares shall be deemed to be personal property found in the place where notice of the seizure thereof is served, and may be seized under execution and may be sold thereunder in like manner as other personal property. R.S.O. 1937, c. 125, s. 11.

Seizure of
shares and
dividends
under
execution.

12.—(1) The sheriff on being informed on behalf of the execution creditor that the execution debtor has such shares, and on being required to seize the same, shall forthwith serve a copy of the execution on the bank or company with a notice that all the shares of the execution debtor are seized thereunder, and from the time of service the seizure shall be deemed to be made and no transfer of the shares by the execution debtor shall be valid unless and until the seizure has

Notice of
seizure.

been discharged, and every seizure and sale made under the execution shall include all dividends, premiums, bonuses or other pecuniary profits upon the shares seized, and the same shall not, after notice as aforesaid, be paid by the bank or company to any one except the person to whom the shares have been sold.

How
seizure
made.

(2) Such seizure may be made and notice given by the sheriff where the bank or company has within his bailiwick a place at which service of process may be made, or where a share register is kept. R.S.O. 1937, c. 125, s. 12.

Provisions
for the case
of more
than one
place of
service.

13. If the bank or company has more than one place where service of process may be made, and there is some place where transfers of shares may be notified to and entered by the bank or company, so as to be valid as regards the bank or company, or where dividends or profits as aforesaid on stock may be paid other than the place where service of such notice has been made, the notice shall not affect any transfer or payment of dividends or profits duly made and entered at any such other place, so as to subject the bank or company to pay twice, or so as to affect the rights of any *bona fide* purchaser, until after the expiration of a period from the time of service sufficient for the transmission of notice of service by post from the place where it has been made to such other place, which notice it shall be the duty of the bank or company to so transmit. R.S.O. 1937, c. 125, s. 13.

Mode of
proceeding
after sale.

14. Where any such share is sold the sheriff shall within 10 days after sale serve upon the bank or company at some place where service of process may be made a copy of the execution, with his certificate endorsed thereon certifying the sale and the name of the purchaser who shall have the same rights and be under the same obligations as if he had purchased the share from the execution debtor at the time of the service of notice under section 12. R.S.O. 1937, c. 125, s. 14.

Saving of
all other
remedies.

15.—(1) Nothing in this Act shall affect any remedy which the execution creditor might, without this Act, have had against any such share or the dividends, premiums, bonuses or other pecuniary profits in respect thereof, and sections 11, 12, 13 and 14 shall apply to such remedy in so far as they can be applied thereto.

Seizure and
sale of
shares in
private
company.

(2) If a sheriff seizes the shares of an execution debtor in a private company he shall first offer them for sale to the other shareholders or any one of them in such private company, and if none of them will purchase the shares for a reasonable price the sheriff may then offer the debtor's interest

therein for sale to the public generally and sell and convey to the highest bidder. R.S.O. 1937, c. 125, s. 15.

16. The procedure for seizure and sale in the case of an equitable or other right, property, interest or equity of redemption in or in respect of any share shall be the same as hereinbefore provided in the case of shares and dividends, and the same shall be held to be personal property found in the place where notice of the seizure is served. R.S.O. 1937, c. 125, s. 16.

Procedure
for sale of
equitable
interests.

17.—(1) All rights under letters patent of invention and any equitable or other right, property, interest or equity of redemption therein shall be deemed to be personal property and may be seized and sold under execution in like manner as other personal property.

Rights under
patent of
invention.

(2) Such seizure and sale may be made by the sheriff of any county or district having in his hands to be executed an execution against the property of the debtor who is the owner of or interested in the letters patent.

How
seizable.

(3) Notice of the seizure shall forthwith be sent to the Patent Office, Ottawa, and the interest of the debtor shall be bound from the time when the notice is received there. R.S.O. 1937, c. 125, s. 17.

Notice of
seizure.

18. The sheriff may seize and sell any equitable or other right, property, interest or equity of redemption in or in respect of any goods, chattels or personal property, including leasehold interests in any land of the execution debtor, and, except where the sale is under an execution against goods issued out of a division court, the sale shall convey whatever equitable or other right, property, interest or equity of redemption he had or was entitled to in or in respect of the goods, chattels or personal property at the time of the delivery of the execution to the sheriff for execution, and where the sale is under an execution against goods issued out of a division court the sale shall convey whatever equitable or other right, property, interest or equity of redemption the debtor had or was entitled to in or in respect of the goods, chattels or personal property at the time of the seizure. R.S.O. 1937, c. 125, s. 18.

Seizure and
sale of rights
in chattels,
etc.

19.—(1) The sheriff shall seize any money or bank-notes, including any surplus of a former execution against the debtor, and any cheques, bills of exchange, promissory notes bonds, mortgages, specialities or other securities for money belonging to the person against whom the execution has been

Money and
securities
for money.

Rev. Stat.,
c. 78.

issued, and, subject to *The Creditors' Relief Act*, shall pay or deliver to the party who sued out the execution the money or bank-notes so seized, or a sufficient part thereof, and hold such cheques, bills of exchange, promissory notes, bonds, mortgages, specialities or other securities for money as security for the amount directed to be levied, or so much thereof as has not been otherwise levied or raised, and the sheriff may sue in his own name for the recovery of the sums secured thereby.

Book debts
and choses
in action.

(2) The sheriff may seize any book debts and other choses in action of the execution debtor and may sue in his own name for the recovery of the moneys payable in respect thereto.

Sale of same
by sheriff.

(3) If it appears to the sheriff that an attempt to collect the book debts, choses in action or the securities for the money referred to in subsections 1 and 2 would be less beneficial to the creditors than a sale thereof, the sheriff may proceed to sell such book debts, choses in action and securities by public auction in the same way as the debtor's goods may be sold when taken in execution. R.S.O. 1937, c. 125, s. 19.

(NOTE—*As to proceedings under division court executions, see also The Division Courts Act, Rev. Stat., c. 106.*)

Effect of
payment
to sheriff.

20. The payment to the sheriff by the person liable on such cheque, bill of exchange, promissory note, bond, mortgage, speciality or other security, with or without suit, or recovery from him, shall discharge him to the extent of such payment or recovery from his liability thereon. R.S.O. 1937, c. 125, s. 20.

Payment of
proceeds.

21. Subject to *The Creditors' Relief Act*, the sheriff shall pay over to the party who sued out the execution the money so paid or recovered, or a sufficient sum to discharge the amount directed to be levied, and if, after satisfaction thereof and of the fees, poundage and expenses of the sheriff, a surplus remains the same shall be paid to the party against whom the execution issued. R.S.O. 1937, c. 125, s. 21.

Indemnity
of sheriff.

22. A sheriff shall not be bound to sue any person liable upon such cheque, bill of exchange, promissory note, bond, mortgage, specialty or other security unless the party who sued out the execution enters into a bond with two sufficient sureties to indemnify the sheriff from all costs and expenses to be incurred in the prosecution of the action, or to which he may become liable in consequence thereof, and the expenses of the bond, not exceeding \$5, may be deducted from any money recovered in the action. R.S.O. 1937, c. 125, s. 22.

23.—(1) A sheriff shall not, without written instructions and a bond as hereinafter mentioned, be obliged to seize property which is in the possession of a third person claiming the same, and not in the possession of the debtor against whose property the execution was issued. When sheriff obliged to seize goods claimed by third parties.

(2) The instructions shall specify the property in such a way as to enable the sheriff to identify it. Instructions.

(3) The bond shall be a bond of indemnity to the sheriff and his assigns, with two sufficient sureties who shall justify in double the value of the property, and the value shall be stated in an affidavit by the creditor or his solicitor or agent attached to the bond. Bond.

(4) The bond shall be assignable to the claimant, and shall be conditioned that the persons executing the same shall be liable for the damages, costs and expenses which the sheriff or the claimant may be put to by the seizure and subsequent proceedings, including interpleader proceedings, if any, and which he does not recover from other persons who ought to pay the same. Conditions of bond.

(5) If the sheriff is not satisfied with the bond offered the matter in difference shall be determined by a judge of the county or district court of the county or district. Settlement by judge.

(6) Nothing in this section shall limit the right of the sheriff to apply for relief by interpleader. R.S.O. 1937, c. 125, s. 23. Right of sheriff to interpleader.

24.—(1) If a sheriff is informed on behalf of the execution creditor that the execution debtor is a mortgagee of land and that the mortgage is registered, or that he is entitled to receive a sum of money charged upon land by virtue of a registered instrument, and if the sheriff is required on behalf of the execution creditor to seize the mortgage or charge, and is furnished in writing with the information necessary to enable him to give the notice hereinafter mentioned, he shall, upon payment of the proper fees, forthwith deliver or transmit to the registrar or master of titles in whose office the mortgage or other instrument is registered, who shall forthwith register the same, a notice in the form or to the effect following: Taking money secured by mortgage under execution.

To the Registrar of (or as the case may be)

By virtue of an execution issued out of the Supreme Court of Ontario (or as the case may be) whereby I am commanded to levy of the goods and chattels of A. B. \$. for debt, and \$. for costs lately adjudged to be paid by A.B. to C.D., besides the

Form of sheriff's notice to registrar.

costs of execution, I have this day seized and taken in execution all the estate, right, title and interest of *A.B.* in a mortgage made by *X.Y.* to *A.B.*, bearing date the day of, 19....., and registered in the registry office for the County of (*or as the case may be*) on the day of, 19....., as number (*or the said mortgage or other instrument may be described in any other manner by reference to dates, parties and the land covered as will enable the notice to be registered against the land therein described*) and in the money secured thereby, and this notice is given for the purpose of binding the interest of *A.B.* under sections 24 to 28 of *The Execution Act*.

Dated this day of, 19....

(Signed) *M. N.*,
Sheriff of the County (*or District*) of

Effect of registration of sheriff's notice to registrar.

(2) Upon registration of the notice the interest of the execution debtor in the mortgage or other instrument, and in the land therein described, and in the money thereby secured and in all covenants and stipulations for securing payment thereof, shall be bound by the execution, and such registration shall be notice of the execution and seizure to all persons who may thereafter in any way acquire any interest in the mortgage, land, money or covenants, and the rights of the sheriff and of the execution creditor shall have priority over the rights of all such persons subject, as regards the mortgagor or person liable to pay the money secured by the mortgage or charge, to section 25. R.S.O. 1937, c. 125, s. 24.

Notice to mortgagor.

25.—(1) A notice similar to that mentioned in section 24 shall also be served upon the mortgagor or the person who is liable to pay the money secured by the registered instrument, and after such service the person served shall pay to the sheriff all money then payable and, as it becomes due, all money which may become payable to the execution debtor so far as may be necessary to satisfy the execution.

Mode of effecting service.

(2) Service of the notice may be made personally, or by leaving it at the dwelling-house of the person to be served with a grown up person residing there, or by registered post to the proper address of the person to be served.

Payments made after notice.

(3) Any payment made after service of the notice or after actual knowledge of the seizure shall be void as against the sheriff and the execution creditor. R.S.O. 1937, c. 125, s. 25.

Sheriff enforcing mortgage.

26. In addition to the remedies herein provided the sheriff may bring an action on any mortgage or other instrument seized under this Act for the sale or foreclosure of the land covered by it, and shall be entitled to a bond of indemnity as in the cases provided for in section 22. R.S.O. 1937, c. 125, s. 26.

27.—(1) Upon an execution, notice whereof is registered under section 24, expiring or being satisfied, set aside or withdrawn, a certificate of such fact shall be given by the sheriff or by the execution creditor, and the same or the order to set aside, as the case may be, may be registered, and thereupon such seizure shall be vacated and be at an end. When seizure may be vacated.

(2) The order or the certificate of the sheriff shall not require verification. Verification of order and certificates.

(3) The certificate of the execution creditor shall be verified by the oath of a subscribing witness as in the case of other instruments affecting land. Idem. R.S.O. 1937, c. 125, s. 27.

28. For the registration of a notice under section 24 the registrar or master shall be entitled to a fee of 50 cents, and for the registration of a certificate under section 27 to the fee provided by *The Registry Act*, and for every notice of seizure under section 24 the sheriff shall be entitled to a fee of \$1, and for every certificate under section 27 to a fee of 75 cents. Fees of registrar and sheriff. Rev. Stat., c. 336. R.S.O. 1937, c. 125, s. 28; 1939, c. 47, s. 9.

29. Where an execution debtor is a mortgagee of chattels and the mortgage is registered as required by law, sections 24, 25, 26, 27 and 28 shall be applicable, except that the notice to be given by the sheriff shall be delivered or transmitted to the clerk of the county or district court or other officer in whose office the chattel mortgage is registered. Taking chattel mortgage in execution. R.S.O. 1937, c. 125, s. 29.

30. Where the word "mortgagor" occurs in sections 31, 32 and 33, it shall be read and construed as if the words "his heirs, executors, administrators or assigns, or person having the equity of redemption" were inserted immediately after the word "mortgagor". Interpretation. R.S.O. 1937, c. 125, s. 30.

31.—(1) The sheriff to whom an execution against the lands and tenements of a mortgagor is directed may seize, sell and convey all the interest of the mortgagor in any mortgaged lands and tenements. Interest of a mortgagor.

(2) The equity of redemption in freehold land shall be saleable under an execution against the lands and tenements of the owner of the equity of redemption in his lifetime, or in the hands of his executors or administrators after his death, subject to the mortgage, in the same manner as land and tenements may now be sold under an execution. Equity of redemption.

(3) Where more mortgages than one of the same lands have been made to the same mortgagee or to different mortgagees, subsections 1 and 2 shall apply, and the equity of Selling lands subject to more than one mortgage in execution.

redemption shall be saleable under an execution against the lands and tenements of the owner, subject to the mortgages, in the same manner as in the case of land subject to one mortgage only. R.S.O. 1937, c. 125, s. 31.

Effect of
sale.

32. The effect of the seizure or taking in execution, sale and conveyance of mortgaged lands and tenements shall be to vest in the purchaser, his heirs and assigns, all the interest of the mortgagor therein at the time the execution was placed in the hands of the sheriff, as well as at the time of the sale, and to vest in the purchaser, his heirs and assigns, the same rights as the mortgagor would have had if the sale had not taken place, and the purchaser, his heirs or assigns, may pay, remove or satisfy any mortgage, charge or lien which at the time of the sale existed upon the lands or tenements so sold in like manner as the mortgagor might have done, and thereupon the purchaser, his heirs and assigns, shall acquire the same estate, right and title as the mortgagor would have acquired in case the payment, removal or satisfaction had been effected by the mortgagor. R.S.O. 1937, c. 125, s. 32.

Effect of
purchase by
mortgagee or
execution
creditor.

33. A mortgagee of land, or the executors, administrators or assigns of a mortgagee, being or not being the execution creditor, may be the purchaser at the sale, and shall acquire the same estate, interest and rights thereby as any other purchaser, but in that event he or they shall give to the mortgagor a release of the mortgage debt, and if another person becomes the purchaser, and if the mortgagee, his executors, administrators or assigns enforce payment of the mortgage debt by the mortgagor the purchaser shall repay the debt and interest to the mortgagor, and in default of payment thereof within one month after demand the mortgagor may recover the debt and interest from the purchaser, and shall have a charge therefor upon the mortgaged land. R.S.O. 1937, c. 125, s. 33.

Contingent
interests
liable to
execution.

Rev. Stat.,
c. 68.

34.—(1) Any estate, right, title or interest in land which, under section 9 of *The Conveyancing and Law of Property Act*, may be conveyed or assigned by any person, or over which he has any disposing power which he may, without the assent of any other person, exercise for his own benefit, shall be liable to seizure and sale under execution against such person in like manner and on like conditions as land is by law liable to seizure and sale under execution, and the sheriff selling the same may convey and assign it to the purchaser in the same manner and with the same effect as the person might himself have done.

(2) An inchoate right to dower shall not be liable to seizure or sale under execution. Except inchoate right to dower.

(3) Property over which a deceased person had a general power of appointment exercisable for his own benefit without the assent of any other person where the same is appointed by his will may be seized and sold under an execution against the personal representative of such deceased person after the property of the deceased has been exhausted. R.S.O. 1937, c. 125, s. 34. Property subject to power of appointment.

35.—(1) The interest of any person derived by deed, lease or licence in writing from the churchwardens or other authorities of any church in a pew or sitting, if such interest is assignable by the holder thereof, may be sold under execution at the suit of such churchwardens or other authorities for arrears of rent or other charges to which such pew or sitting is subject, or which the holder thereof may have agreed to pay or for which he may be liable, or at the suit of any creditor of such holder, and such churchwardens or other authorities may become purchasers at such sale on behalf of the church, and may relet or sell the right so acquired. Interest in pew or sitting.

(2) The sheriff may execute a deed to the purchaser of the interest so sold, and the churchwardens or other authorities shall, on production of such deed, give effect to the same, upon payment of any arrears of rent or charge, then due. Deed.

(3) Such sale shall be subject to any continuing rent or charge of such pew or sitting previously stipulated for or imposed, and shall not prejudice the right to impose increased rent or charges on such pew or sitting pursuant to *The Church Temporalities Act*, or any other law or custom. R.S.O. 1937, c. 125, s. 35. Saving.

36. The title and interest of a testator or intestate in land may be seized and sold under an execution upon a judgment recovered by a creditor of the testator or intestate against his executor or administrator in the same manner and under the same process as upon a judgment against the deceased if he were living. R.S.O. 1937, c. 125, s. 36. How execution enforceable against executor, etc.

37.—(1) An execution against a municipal corporation may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings thereon shall then be the following: Executions against municipal corporations.

(a) The sheriff shall deliver a copy of the writ and endorsement to the treasurer of the municipal corporation. Statement of claim to treasurer.

poration, or leave such copy at the office or dwelling-place of that officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including the interest calculated to some day as near as is convenient to the day of the service.

When sheriff
to strike
rate.

- (b) If the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment roll of the municipality and shall, in like manner as rates are struck for general municipal purposes, strike a rate sufficient in the dollar to cover the amount due on the execution, with such addition to the same as the sheriff deems sufficient to cover the interest up to the time when the rate will probably be available, and his own fees and poundage.

Sheriff's
precept to
collector,
etc., to levy
rate.

- (c) The sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the corporation, and shall annex to the precept the roll of such rate, and shall by the precept after reciting the writ and that the corporation has neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect to the general annual rates.

Rate rolls.

- (d) If, at the time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year, he shall add a column thereto, headed "Execution rate in A.B. vs. The Township" (or as the case may be, adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon.

Surplus.

- (e) The sheriff shall, after satisfying the execution and all the fees and poundage thereon, pay any surplus, within 10 days after receiving the same, to the treasurer of the municipal corporation.

Functions of
clerk, asses-
sors and
collectors.

- (2) The clerk, assessor and collector of the corporation shall, for all purposes connected with carrying into effect, or permitting or assisting the sheriff to carry into effect, the

provisions of this Act with respect to such execution, be deemed to be officers of the court out of which the writ issued, and as such shall be amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. R.S.O. 1937, c. 125, s. 37.

CHAPTER 121

The Executive Council Act

1. The Executive Council shall be composed of such persons as the Lieutenant-Governor from time to time appoints, and all executive councillors so appointed shall be ministers of the Crown, and shall rank among themselves in the order of their appointments respectively. R.S.O. 1937, c. 14, s. 1.

Executive Council, how composed.

2. The Lieutenant-Governor may appoint under the Great Seal from among the ministers of the Crown the following ministers to hold office during pleasure: a President of the Council, an Attorney-General, a Secretary and Registrar, a Treasurer, a Minister of Lands and Forests, a Minister of Mines, a Minister of Agriculture, a Minister of Public Works, a Minister of Highways, a Minister of Education, a Minister of Labour, a Minister of Health, a Minister of Public Welfare, a Minister of Municipal Affairs, a Minister of Planning and Development, a Minister of Travel and Publicity, a Minister of Reform Institutions, and such other ministers as he may see fit, and may by Order in Council prescribe their duties and the duties of the several departments over which they preside, and of the officers and clerks thereof. R.S.O. 1937, c. 14, s. 2; 1944, c. 18, s. 1; 1946, c. 26, s. 1.

Heads of departments.

3.—(1) The annual salary of every minister having charge of a department shall be \$10,000.

Salaries.

(2) The member of the Executive Council holding the recognized position of First Minister shall receive in addition, \$4,000 per annum.

Additional salary for the First Minister.

(3) The salaries shall be chargeable upon and payable yearly and *pro rata* for any period less than a year out of the Consolidated Revenue Fund. R.S.O. 1937, c. 14, s. 3.

How chargeable and payable.

4.—(1) Notwithstanding *The Legislative Assembly Act*, any of the powers and duties which have been heretofore or may be hereafter assigned by law to any minister of the Crown may from time to time by Order in Council be assigned and transferred either for a limited period or otherwise to any other minister by name or otherwise.

Transfer of duties from one member of Council to another.

Rev. Stat., c. 202.

Minister
acting upon
request.

(2) On request made to him by the minister to whom any duties and powers have been assigned as herein provided, any other minister may for a period not exceeding one week perform such duties and exercise such powers in place of the minister making the request, and in such case no Order in Council shall be required.

Minister
without
portfolio
may act.

(3) Where any such duties and powers are assigned to a minister without portfolio he shall not thereby become ineligible as a member of the Assembly or to sit or vote therein. R.S.O. 1937, c. 14, s. 4.

Execution
of contracts
with Crown.

5. No deed or contract in respect of any matter under the control or direction of a minister shall be binding on His Majesty or be deemed to be the act of such minister unless it is signed by him or is approved by the Lieutenant Governor in Council. R.S.O. 1937, c. 14, s. 5.

CHAPTER 122

The Extra-judicial Services Act

1. Every judge of the Supreme Court shall be paid out of the Consolidated Revenue Fund the annual sum of \$1,000, payable quarterly, as compensation for the services which he is called on to render by any Act of the Legislature in addition to his ordinary duties. R.S.O. 1937, c. 101, s. 1.

CHAPTER 123

**The Extramural Employment of Persons
under Sentence Act**

1. Upon the recommendation of the Board of Parole the Lieutenant-Governor in Council may from time to time authorize, direct or sanction the employment on any work or duty without or beyond the limits of any jail, industrial farm, reformatory or other place of safe custody under the jurisdiction or control of the Province of Ontario, of any persons confined or sentenced to be imprisoned therein or transferred thereto under any statute of Ontario. R.S.O. 1937, c. 398, s. 1.

Authoriza-
tion for
extramural
employment.

2. All such persons shall, during such employment, be subject to such rules, regulations and discipline as are approved by the Lieutenant-Governor in Council in that behalf. R.S.O. 1937, c. 398, s. 2.

Such per-
sons to be
subject to
rules and
regulations.

3. The chief parole officer and his assistants, subject to the direction of the Board of Parole, shall have such custodial and other powers with respect to persons removed from any such jail, industrial farm, reformatory or other place of safe custody for the purpose of employment elsewhere under this Act from the time of such removal and during the period of such employment and until the return of the persons so employed to the place of safe custody or their discharge by due process of law as may be conferred or prescribed by the rules and regulations. R.S.O. 1937, c. 398, s. 3.

Appointment
and powers
of officer.

CHAPTER 124

The Extra-provincial Corporations Act

1. In this Act,

Interpre-
tation.

- (a) "extra-provincial corporation" means a corporation created otherwise than by or under the authority of an Act of the Legislature;
- (b) "Minister" means Provincial Secretary;
- (c) "regulations" means regulations made under this Act. R.S.O. 1937, c. 252, s. 1.

2.—(1) Extra-provincial corporations of the classes mentioned in this subsection shall not be required to take out a licence under this Act: Corporations which do not require licences.

Class 1. Corporations created by or under the authority of an Act of the Legislature of the late Province of Upper Canada, or by charter of the Government of that Province.

Class 2. Corporations created by or under the authority of an Act of the Legislature of the late Province of Canada, or by charter of the Government of that Province, and carrying on business in Ontario on the 1st day of July, 1900.

Class 3. Corporations which had before the 1st day of July, 1900, received from the Government of Ontario a licence to carry on business in Ontario, or which have been authorized by Act of the Legislature to carry on business in Ontario while such licence or Act is in force.

Class 4. Corporations licensed or registered under *The Insurance Act*, *The Loan and Trust Corporations Act* or *The Investment Contracts Act*. Rev. Stat., cc. 183, 214, 187.

Class 5. Corporations not having gain for any of their objects.

Class 6. Corporations created by or under the authority of an Act of the Parliament of Canada, and authorized to carry on business in Ontario.

Class 7. Corporations of any class exempted by the Lieutenant-Governor in Council. R.S.O. 1937, c. 252, s. 2; 1940, c. 28, s. 13 (1); 1947, c. 34, s. 1 (1); 1950, c. 18, s. 1.

Exemption
by
Lieutenant-
Governor
in Council.

(2) The Lieutenant-Governor in Council may prescribe any class or classes of extra-provincial corporations which shall not be required to take out a licence under this Act. 1947, c. 34, s. 1 (2).

Corporations
which
require
licence.

3.—(1) Extra-provincial corporations of the classes mentioned in this section are required to take out a licence under this Act:

Class 8. Corporations other than those mentioned in section 2 created by or under the authority of an Act of the Legislature of the late Province of Canada, or by charter of the Government of that Province, authorized to carry on business in Upper Canada, but not carrying on business in Ontario on the 1st day of July, 1900.

Class 9. Corporations not coming within classes 1 to 8.

Reciprocal
legislation
as to exemp-
tion from
licensing.

(2) Where it appears that legislation is in force in any other province of Canada exempting corporations incorporated in Ontario from the provisions of any Act corresponding with the provisions of this Act, the Lieutenant-Governor in Council may exempt any corporation incorporated under the law of such other province from the provisions of this Act or any of them. R.S.O. 1937, c. 252, s. 3.

Right to
licence when
within
class 8.

4. A corporation coming within class 8 shall, upon complying with this Act and the regulations, receive a licence to carry on its business and exercise its powers in Ontario. R.S.O. 1937, c. 252, s. 4.

Right to
licence when
within
class 9.

5. A corporation coming within class 9, upon complying with this Act and the regulations, may receive a licence to carry on the whole or such parts of its business and exercise the whole or such parts of its powers in Ontario as may be embraced in the licence; subject, however, to such limitations and conditions as may be specified therein. R.S.O. 1937, c. 252, s. 5.

6.—(1) No extra-provincial corporation coming within class 8 or 9 shall carry on in Ontario any of its business unless and until a licence under this Act so to do has been granted to it, and unless such licence is in force, and no company, firm, broker, agent or other person shall, as the representative or agent of, or acting in any other capacity for any such extra-provincial corporation, carry on any of its business in Ontario unless and until it has received such licence and unless such licence is in force.

Carrying on
business
without
licence
prohibited.

(2) Taking orders for or buying or selling goods, wares and merchandise by travellers or by correspondence, if the corporation has no resident agent or representative or no office or place of business in Ontario, shall not be deemed a carrying on of business within the meaning of this Act. R.S.O. 1937, c. 252, s. 6.

Exception.

7. The onus of proving that a corporation has no resident agent or representative and no office or place of business in Ontario, shall, in any prosecution for an offence against section 6, rest upon the accused. R.S.O. 1937, c. 252, s. 7.

Onus of
proof.

8.—(1) An extra-provincial corporation coming within class 8 or 9 may apply to the Lieutenant-Governor in Council for a licence to carry on its business or part thereof, and to exercise its powers or part thereof, in Ontario.

Application
for licence.

(2) No limitations or conditions shall be included in any such licence which would limit the rights of a corporation coming within class 8 to carry on in Ontario all such parts of its business and to exercise in Ontario all such parts of its powers as by its Act or charter of incorporation it may be authorized to carry on and exercise therein. R.S.O. 1937, c. 252, s. 8.

Conditions
of licence.

9.—(1) The Lieutenant-Governor in Council may make regulations,

Regulations.

- (a) respecting the evidence required upon the application for a licence, as to the creation of the corporation, its powers and objects and its existence as a valid and subsisting corporation;
- (b) respecting the appointment and continuance by the corporation of a person or company as its representative in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;

- (c) respecting the forms of licences, powers of attorney, applications, notices, statements, returns and other documents relating to applications and other proceedings under this Act. R.S.O. 1937, c. 252, s. 9 (1); 1946, c. 89, s. 18.

Special
Orders in
Council.

(2) The Lieutenant-Governor in Council may make orders as to particular cases where the general regulations may not be applicable or where they would cause unnecessary inconvenience or delay. R.S.O. 1937, c. 252, s. 9 (2).

Proof to be
furnished on
application.

10. Upon the application for a licence the applicant shall establish to the satisfaction of the Minister, or such other officer as may be charged by him to report thereon, that the provisions of this Act and the regulations have been complied with, and the Minister or such other officer may, for that or for any other purpose under this Act, take evidence under oath. R.S.O. 1937, c. 252, s. 10.

Dealing
with real
estate.

11. A corporation receiving a licence may, subject to the limitations and conditions of the license, and subject to the provisions of its own charter, Act of incorporation or other instrument creating it, acquire, hold, mortgage, alienate and otherwise dispose of real estate in Ontario and any interest therein to the same extent and for the same purposes as if it had been incorporated under *The Companies Act* with power to carry on the business and exercise the powers embraced in the licence. R.S.O. 1937, c. 252, s. 11.

Rev. Stat.,
c. 59.

Notice of
granting
licence.

12. Notice of the granting of a licence under this Act shall be given in *The Ontario Gazette*, and a copy of the *Gazette* containing the notice shall be *prima facie* evidence in all proceedings by and against the corporation and otherwise under this Act or otherwise, of the granting of the licence and of the terms thereof mentioned in the notice, and a copy of the licence certified by the Minister or his deputy shall be sufficient evidence of the licence before all courts and tribunals. R.S.O. 1937, c. 252, s. 12.

Suspension,
cancellation
or restora-
tion of
licence after
default of
licensee.

13.—(1) If a corporation receiving a licence makes default in observing or complying with the limitations and conditions of the licence or the regulations respecting the appointment and continuance of a representative in Ontario, the Lieutenant-Governor in Council may suspend or revoke the licence in whole or in part, and may remove the suspension or cancel the revocation and restore the licence.

Publication.

(2) Notice of the suspension, revocation, removal or restoration shall be given in *The Ontario Gazette*. R.S.O. 1937, c. 252, s. 13.

14.—(1) If any extra-provincial corporation coming within class 8 or 9 carries on in Ontario any part of its business contrary to section 6, it shall incur a penalty of \$50 for every day upon which it so carries on business, and so long as any extra-provincial corporation coming within class 9 remains unlicensed it shall not be capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made in whole or in part in Ontario in the course of or in connection with business carried on contrary to section 6. Penalty for carrying on business without a licence.

(2) Upon the granting or restoration of the licence, or the removal of any suspension thereof, such action or other proceeding may be prosecuted as if the licence had been granted or restored or the suspension had been removed before the institution thereof. R.S.O. 1937, c. 252, s. 14. Saving.

15. The Lieutenant-Governor in Council may on or after granting a licence remit in whole or in part any penalty incurred by the corporation receiving the licence or by any representative or agent thereof, and may also remit in whole or in part the costs of any action or proceeding commenced for the recovery of any such penalty, and thereupon the whole or such part of the costs, as the case may be, shall not be recoverable. R.S.O. 1937, c. 252, s. 15. Power to remit penalties or costs.

16. The penalties mentioned in this Act shall be recoverable only by an action at the suit of or brought with the written consent of the Attorney-General which shall be commenced within six months after the liability for the penalty was incurred, and not afterwards. R.S.O. 1937, c. 252, s. 16. Penalties, how recoverable.

17. There shall be paid to the Crown in right of Ontario for every licence under this Act, such fees as may be prescribed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 252, s. 17. Fees on licences.

18. An extra-provincial corporation which is not required by this Act to take out a licence may apply for and receive a licence authorizing it, subject to the limitations and conditions of the licence, and subject to the provisions of its own charter, Act of incorporation or other creating instrument, to acquire, hold, mortgage, alienate and otherwise dispose of real estate in Ontario and any interest therein to the same extent and for the same purposes as if it had been incorporated under *The Companies Act* with power to carry on the business or exercise the powers embraced in the licence. R.S.O. 1937, c. 252, s. 18. Granting licence as to real estate to other corporations. Rev. Stat., c. 59.

Annual
report.

19.—(1) The Minister shall, after the close of each fiscal year, prepare an annual report showing the licences issued during the preceding calendar year, the authorized stock of each company licensed and the fee paid for each licence.

Tabling
of report.

(2) The Provincial Secretary shall submit the report to the Lieutenant-Governor in Council and shall then lay the report before the Assembly if it is in session, or if not, at the next ensuing session. 1950, c. 18, s. 2.

5931

Author Ontario

Title Revised statutes of Ontario, 1950
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